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Colorado

Motor Vehicle Industry Laws & Regulations



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COLORADO STATUTES & REGULATIONS FOR THE MOTOR VEHICLE INDUSTRY

TITLE 12, ARTICLE 6, PART 1, C.R.S. and 1.C.C.R. 205-1

12-6-101. Legislative declaration.

(1) The general assembly hereby declares that:

(a) The sale and distribution of motor vehicles affects the public interest and a significant factor of inducement in making a sale of a motor vehicle is the trust and confidence of the purchaser in the retail dealer from whom the purchase is made and the expectancy that such dealer will remain in business to provide service for the motor vehicle purchased;

(b) Proper motor vehicle service is important to highway safety and the manufacturers and distributors of motor vehicles have an obligation to the public not to terminate or refuse to continue their franchise agreements with retail dealers unless the manufacturer or distributor has first established good cause for termination or non-continuance of any such agreement, to the end that there shall be no diminution of locally available service;

(c) The licensing and supervision of motor vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers and therefore the sale of motor vehicles by unlicensed dealers or salespersons, or by licensed dealers or salespersons who have demonstrated unfitness, should be prevented; and

(d) Consumer education concerning the rules and regulations of the motor vehicle industry, the considerations when purchasing a motor vehicle, and the role, functions, and actions of the motor vehicle dealer board are necessary for the protection of the public and for maintaining the trust and confidence of the public in the motor vehicle dealer board.

12-6-102. Definitions.

As used in this part 1 and in part 5 of this article, unless the context or section [12-6-502](#) otherwise requires:

(1) (Deleted by amendment, L. 92, p. 1841, § 2, effective July 1, 1992.)

(1.5) "**Advertisement**" means any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, on a computer display, or in any point-of-transaction literature or price tag that is delivered or made available to a customer or prospective customer in any manner whatsoever; except that such term does not include materials required to be displayed by federal or state law.

(2) "**Board**" means the motor vehicle dealer board.

(2.4) "**Business incidental thereto**" means a business owned by the motor vehicle dealer or used motor vehicle dealer related to the sale of motor vehicles, including, without limitation, motor vehicle part sales, motor vehicle repair, motor vehicle recycling, motor vehicle security interest assignment, and motor vehicle towing. (SB07-221) (Effective 7-1-2007)

(2.5) (a) (I) "**Buyer agent**" means any person required to be licensed pursuant to this part 1 who is retained or hired by a consumer for a fee or other thing of value to assist, represent, or act on behalf of such consumer in connection with the purchase or lease of a motor vehicle.

(II) "**Consumer**", as used in this subsection (2.5), means a purchaser or lessee of a motor vehicle, which vehicle is primarily used for business, personal, family, or household purposes. "Consumer" does not include a purchaser of motor vehicles who purchases said motor vehicles primarily for resale.

(b) (I) "**Buyer agent**" does not include a person whose business includes the purchase of motor vehicles primarily for resale or lease; except that nothing in this subsection (2.5) shall be construed to prohibit a buyer agent from assisting a consumer regarding the disposal of a trade-in motor vehicle that is incident to the purchase or lease of a vehicle if the buyer agent does not advertise the sale of, or sell, such vehicle to the general public, directs interested dealers and wholesalers to communicate their offers directly to the consumer or to the consumer via the buyer agent, does not handle or transfer titles or funds between the consumer and the purchaser, receives no compensation from a dealer or wholesaler purchasing a consumer's vehicle, and identifies himself or herself as a buyer agent to dealers and wholesalers interested in the consumer's vehicle.

(II) A "**buyer agent**" licensed pursuant to this part 1 shall not be employed by or receive a fee from a person whose business includes the purchase of motor vehicles primarily for resale or lease, a motor vehicle manufacturer, a motor vehicle dealer, or a used motor vehicle dealer.

(3) "**Coerce**" means the failure to act in good faith in performing or complying with any terms or provisions of the franchise or agreement; except that recommendation, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

(4) "**Community**" means a franchisee's area of responsibility as set out in the franchise.

(4.5) (a) "**Custom trailer**" means any motor vehicle which is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and which is uniquely designed and manufactured for a specific purpose or customer.

(b) "**Custom trailer**" does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

(5) "**Distributor**" means a person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

(6) And (7) (Deleted by amendment, L. 2003, p. 1300, § 1, effective April 22, 2003.)

(7.5) "**Executive director**" means the executive director of the department of revenue charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, manufacturer representatives, and manufacturers.

(8) And (9) (Deleted by amendment, L. 2003, p. 1300, § 1, effective April 22, 2003.)

(9.5) "**Fire truck**" means a vehicle intended for use in the extermination of fires, with features that may include, but shall not be limited to, a fire pump, a water tank, an aerial ladder, an elevated platform, or any combination thereof.

(10) "**Good faith**" means the duty of each party to any franchise and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party. Recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

(10.5) "Line-make" means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's trademark, trade name, or logo.

(11) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles; except that "manufacturer" shall not include:

(a) Any person who only manufactures utility trailers that weigh less than two thousand pounds and does not manufacture any other type of motor vehicle; and

(b) Any person, other than a manufacturer operating a dealer pursuant to section [12-6-120.5](#), who is a licensed dealer selling motor vehicles that such person has manufactured.

(11.5) "Manufacturer representative" means a representative employed by a person who manufactures or assembles motor vehicles for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers or prospective dealers.

Regulation 12-6-101 (11). (Executive Director Regulations) *All manufacturers doing business in the state of Colorado, irrespective of whether they maintain or have places of business herein, must be licensed as such.*

The sale of any new and unused motor vehicles, either directly or indirectly in the state of Colorado shall constitute doing business in the state by the manufacturer and shall subject such manufacturer to the requirements of this article. (1 C.C.R. 205-1)

(12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways which is self-propelled and every vehicle intended primarily for operation on the public highways which is not driven or propelled by its own power but which is designed to be attached to or become a part of or to be drawn by a self-propelled vehicle, not including farm tractors and other machines and tools used in the production, harvesting, and care of farm products. "Motor vehicle" includes, without limitation, a low-power scooter, as defined in section 42-1-102, C.R.S. (HB09-1026)(Effective 10-1-2009)

Regulation 12-6-102 (12). *A "new" motor vehicle is defined as "any motor vehicle being transferred for the first time from a manufacturer or importer, or dealer or agent of a manufacturer or importer, and which motor vehicle has heretofore not been used, and is what is commonly known as a 'new motor vehicle'".*

For the purpose of administration of the Motor Vehicle Dealers and Salesperson Licensing Law, a "new" motor vehicle shall be deemed to be a motor vehicle sold by a Colorado licensed motor vehicle dealer, as defined in the Act, who is franchised by the manufacturer of that make of motor vehicle to sell such motor vehicles. Said motor vehicle shall not have been used as a demonstrator or for private use, or for any other purpose which would indicate "use" in the strict definition of the word "used". A motor vehicle which has been used by a dealer solely for the purpose of demonstration to prospective customers shall be considered a "new vehicle", unless such demonstration use has been for more than fifteen hundred (1500) miles.

New motor vehicles may be exchanged between dealers enfranchised to sell the same make of vehicle by a proper assignment of the Manufacturer's Certificate of Origin.

Only wholesalers or "new" motor vehicle dealers franchised by manufacturers to sell their motor vehicles will be allowed to sell "new" motor vehicles, and only then if they have not previously been sold except by the manufacturer to such dealer.

A "used motor vehicle" is defined as any motor vehicle which has been sold, bargained, exchanged, given away, or the title thereto transferred from the person who first took title thereto from the manufacturer or

importer, dealer or agent of the manufacturer or importer, or so used as to have become what is commonly known as a "secondhand motor vehicle". In the event of transfer on the Certificate of Origin, from the original franchised dealer to any other dealer or individual other than a franchised dealer of the same make of vehicle, the vehicle shall be considered a "used" motor vehicle, and must be titled in the new owner's name. Vehicles with more than one fifteen hundred (1500) miles of demonstration use shall be considered "used" vehicles. Such "demonstrators" and other motor vehicles which have been used by a dealer prior to their sale shall be titled in the dealer's name and sold as "used" motor vehicles.

All vehicles which do not qualify as "new" motor vehicles shall be deemed to be "used" motor vehicles for the purpose of administration of this Act. (1 C.C.R. 205-1)

(12.5) (Deleted by amendment, L. 92, p. 1841, § 2, effective July 1, 1992.)

(12.6) "Motor vehicle auctioneer" means any person, not otherwise required to be licensed pursuant to this part 1, who is engaged in the business of offering to sell, or selling, used motor vehicles owned by persons other than the auctioneer at public auction only. Any auctioning of motor vehicles by an auctioneer shall be incidental to the primary business of auctioning goods.

(13) "Motor vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used motor vehicles, whether or not such motor vehicles are owned by such person. The sale or lease of three or more new or new and used motor vehicles or the offering for sale or lease of more than three new or new and used motor vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling or leasing new or new and used motor vehicles. "Motor vehicle dealer" includes an owner of real property who allows more than three new or new and used motor vehicles to be offered for sale or lease on such property during one calendar year unless said property is leased to a licensed motor vehicle dealer. "Motor vehicle dealer" does not include:

- (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;
- (b) Public officers while performing their official duties;
- (c) Employees of persons enumerated in the definition of "motor vehicle dealer" when engaged in the specific performance of their duties as such employees;
- (d) A wholesaler, as defined in subsection (18) of this section, or anyone selling motor vehicles solely to wholesalers;
- (e) Any person engaged in the selling of a fire truck;
- (f) A motor vehicle auctioneer, as defined in subsection (12.6) of this section.

Regulation 12-6-102 (13). "Profit" may be "gain, benefit or advantage," but "gain, benefit or advantage" does not necessarily mean only "profit."

Profit may be defined as the difference between the price paid and the market value of the vehicle after deduction of the expenses incurred in the sale thereof.

Gain of money or other thing of value includes but is not limited to any increase or addition to what one has of that which is of profit, advantage or benefit.

A profit or gain does not necessarily mean a direct return; and therefore, a saving of expense which would otherwise be incurred is also a profit or gain to the person benefited. (1 C.C.R. 205-1)

(14) "Motor vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a motor

vehicle dealer or used motor vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of motor vehicles.

(15) "Person" means any natural person, estate, trust, limited liability company, partnership, association, corporation, or other legal entity, including, without limitation, a registered limited liability partnership.

(16) "Principal place of business" means a site or location devoted exclusively to the business for which the motor vehicle dealer or used motor vehicle dealer is licensed and businesses incidental thereto, sufficiently designated to admit of definite description, with space thereon or contiguous thereto adequate to permit the display of one or more new or used motor vehicles, and on which there shall be located or erected a permanent enclosed building or structure large enough to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of such dealer, at which site or location the principal portion of such dealer's business shall be conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of such location at least thirty days in advance.

Regulation 12-6-102 (16). 1. A motor vehicle dealer or used motor vehicle dealer shall obtain an off-premise permit to offer, display and sell motor vehicles away from the dealer's place of business. A request for an off-premise permit shall be made in writing prior to the event and shall list the location and the date(s) of the sale. The permit shall be posted for inspection at the sale.

2. No off-premise sale shall exceed six days except for the National Western Stock Show, the Colorado State Fair, and the Metro Denver Auto Dealers Association annual Denver Auto Show, which shall not exceed twenty days. Consecutive permits for the same location are not allowed.

3. The books and records of each dealer, excluding financial statements and tax returns, shall be open to inspection Monday through Friday between 9AM and 5PM by the Board and its agents and representatives with cause, including ongoing investigation, compliance audit, sworn complaint, order of the Board. All records, including financial records and tax returns shall be provided upon subpoena by the Board. (1 C.C.R. 205-1)

4. Additional locations which are immediately adjacent to the principal place of business of the licensed dealer shall be considered contiguous for the purpose of this statute. "Immediately adjacent" shall mean either next to or directly or diagonally across from the dealership even if a public road or thoroughfare is between the additional location and the dealer's principal place of business. Subject to any applicable local zoning or sign requirements, the additional location shall not have any signage which identifies the additional location as being operated under any name other than the name or trade name of the licensee's principal place of business. The additional location may not advertise under a different name than that under which the dealership is licensed. (1 C.C.R. 205-1)

(16.5) "Recreational vehicle" means a camping trailer, fifth wheel trailer, motor home, recreational park trailer, travel trailer, or truck camper, all as defined in section [24-32-902](#), C.R.S.

(17) "Used motor vehicle dealer" means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used motor vehicles, or attempts to negotiate a sale, exchange, or lease of used and new motor vehicles or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by such person. The sale of three or more used motor vehicles or the offering for sale of more than three used motor vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling used motor vehicles. "Used motor vehicle dealer" includes any owner of real property who allows more than three used motor vehicles to be offered for sale on such property during one calendar year unless said property is leased to a licensed used motor vehicle dealer. "Used motor vehicle dealer" does not include:

- (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;
- (b) Public officers while performing their official duties;
- (c) Employees of persons enumerated in the definition of "used motor vehicle dealer" when engaged in the specific performance of their duties as such employees;
- (d) A wholesaler, as defined in subsection (18) of this section, or anyone selling motor vehicles solely to wholesalers;
- (e) Mortgagees or secured parties as to sales in any one year of not more than twelve motor vehicles constituting collateral on a mortgage or security agreement, if such mortgagees or secured parties shall not realize for their own account from such sales any moneys in excess of the outstanding balance secured by such mortgage or security agreement, plus costs of collection;
- (f) Any person who only sells or exchanges no more than four motor vehicles that are collectors' items pursuant to section [42-3-219](#), C.R.S., or pursuant to article [12](#) of title [42](#), C.R.S.;
- (g) A motor vehicle auctioneer, as defined in subsection (12.6) of this section;
- (h) An operator, as defined in section [42-4-2102](#) (5), C.R.S., who sells a motor vehicle pursuant to section [42-4-2104](#), C.R.S.

Regulation 12-6-102 (17). See Regulation 12-6-102 (13). (1 C.C.R. 205-1)

(17.5) "Wholesale motor vehicle auction dealer" means any person or firm that provides auction services in wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any other jurisdiction or in consumer transactions of government vehicles at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee. (SB07-221) (Effective 7-1-2007)

(18) "Wholesaler" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles solely to motor vehicle dealers or used motor vehicle dealers.

Regulation 12-6-102 (18) No person may hold both a wholesaler license and a motor vehicle salesperson license at the same time.

A wholesaler may not employ a motor vehicle salesperson.

For discussion of profit or gain, see Regulation 12-6-102 (13).

Wholesalers shall use a name other than their personal name on all business documents for the purchase and sale of motor vehicles to differentiate between a wholesaler and a Regulation 12-6-104

(3)(a) The executive director and his agents or employees shall have the authority to carry out ministerial acts involving the enforcement of rules and regulations as specifically delegated by the Motor Vehicle Dealer Board. (1 C.C.R. 205-1)

12-6-103. Motor vehicle dealer board.

(1) There is hereby created and established the motor vehicle dealer board, consisting of nine members who have been residents of this state for at least five years, three of whom shall be licensed motor vehicle dealers, three of whom shall be licensed used motor vehicle dealers, and three of whom shall be members from the public at large. The members representing the public at large shall not have a present or past financial interest in a motor vehicle dealership. The board shall assume its duties July 1, 1992, and all terms of the board members shall commence on that date. The terms of office of the board members shall be three years. Any vacancies shall be filled by appointment for the unexpired term.

(2) All board members shall be appointed by the governor.

(3) Each board member shall be reimbursed for actual and necessary expenses incurred while engaged in the discharge of official duties.

12-6-104. Board - oath - meetings - powers and duties.

(1) Each member of the board, before entering on the discharge of such member's duties and within thirty days after the effective date of such member's appointment, shall subscribe an oath for the faithful performance of such member's duties before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.

(2) The board shall annually in the month of July elect from the membership thereof a president, a first vice-president, and a second vice-president. The board shall meet at such times as it deems necessary. A majority of the board shall constitute a quorum at any meeting or hearing.

(3) The board is authorized and empowered:

(a) To promulgate, amend, and repeal rules reasonably necessary to implement this part 1, including the administration, and enforcement, issuance, and denial of licenses to motor vehicle dealers, motor vehicle salespersons, used motor vehicle dealers, wholesale motor vehicle auction dealers, and wholesalers, and the laws of the state of Colorado;(SB07-221)(Effective 7-2-2007)

(a.5) To delegate to the board's executive secretary, employed pursuant to section 12-6-105 (1) (b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority of the board;

(a.7) To issue through the department of revenue a temporary license to any person applying for any license issued by the board. The temporary license shall permit the applicant to operate for a period not to exceed one hundred twenty days while the board is completing its investigation and determination of all facts relative to the qualifications of the applicant for such license. A temporary license is terminated when the applicant's license is issued or denied.

Regulation 12-6-104 (3) (a). *The executive director and his agents or employees shall have the authority to carry out ministerial acts involving the enforcement of rules and regulations as specifically delegated by the Motor Vehicle Dealer Board. (1 C.C.R. 205-1)*

(b) and (c) (Deleted by amendment, L. 92, p. 1842, § 4, effective July 1, 1992.)

(d) (I) To issue through the department of revenue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the board is authorized to issue by this part 1;

(II) To permit the executive director, or the executive director's designee, to issue licenses pursuant to rules and regulations adopted by the board pursuant to paragraph (a) of this subsection (3);

Regulation 12-6-104 (3) (d) (II). *Delegation of authority.*

The Board delegates to the Executive Secretary and the Auto Industry Division, the authority to approve and issue all licenses within the authority of the Board in accordance with guidelines established by the Board. (1 C.C.R. 205-1)

(e) (I) After due notice and a hearing, to review the findings of an administrative law judge or a hearing officer from a hearing conducted pursuant to this part 1 to revoke and suspend or to order the executive director to issue or to reinstate, on such terms and conditions and for such period of time as to the board shall appear fair and just, any license issued under and pursuant to

the terms and provisions of this part 1. The board may direct a letter of admonition for minor violations or may issue a letter of reprimand to any licensee for a violation of this part 1. A letter of admonition does not become a part of the licensee's record with the board. A letter of reprimand is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of any subsequent violation by the licensee. When a letter of reprimand is sent to a licensee of the board, such licensee shall be notified in writing regarding the right to request in writing, within twenty days after receipt of such letter, that formal disciplinary proceedings be initiated against such licensee to adjudicate the propriety of the conduct upon which the letter of reprimand is based. If a request is made within such time period, the letter of reprimand is deemed vacated and the matter shall be processed by means of formal disciplinary proceedings. (SB07-221)(Effective 7-1-2007)

(II) The findings of the board pursuant to subparagraph (I) of this paragraph (e) shall be final.

Regulation 12-6-104 (3) (e). *The executive secretary is delegated the authority to enter a default against a licensee who fails to file a written answer as required by 24-4-105 (2)(b), C.R.S. Upon entering the default, the executive secretary shall vacate the scheduled hearing and send notice by first class mail to the licensee of the default, and, that the Board will consider appropriate sanction at its next meeting. The licensee shall also be given notice of the right to have the default set aside upon a showing of good cause. If the licensee fails to demonstrate good cause to set aside the default within ten days of the date of the default, the Board's order will become final. (1 C.C.R. 205-1)*

(f) (I) To investigate through the executive director, on its own motion or upon the written and signed complaint of any person, any suspected or alleged violation by any motor vehicle dealer, motor vehicle salesperson, used motor vehicle dealer, wholesale motor vehicle auction dealer, or wholesaler licensee of any of the terms and provisions of this part 1 or of any rule or regulation promulgated by the board under the authority conferred upon it in this section. The board shall order an investigation of all written and signed complaints, shall have the authority to issue subpoenas and to delegate the authority to issue subpoenas to the executive director, and the executive director shall make an investigation of all such complaints transmitted by the board pursuant to section [12-6-105](#) (1) (d). The board has the authority to seek to resolve disputes before beginning an investigation or hearing through its own action or by direction to the executive director.

Regulation 12-6-104 (3) (f) (I). *Investigations.*

The Board delegates to the Executive Director or the Executive Director's designee the authority to initiate investigations of complaints filed under the jurisdiction of the Board with the Auto Industry Division, or initiated by the Board, pursuant to and in accordance with guidelines approved by the Board.

(II) After an investigation by the executive director or the executive director's designee, if the board determines that there is probable cause to believe a violation of this article has occurred, it may order that an administrative hearing be held pursuant to section [24-4-105](#), C.R.S., or may designate one of the board's members as a hearing officer to conduct a hearing pursuant to section [24-4-105](#), C.R.S.

Regulation 12-6-104 (3) (f). *Hearing procedures.*

(I) *The board president will normally preside at hearings before the full board, or in the president's absence, such board member as may be designated by a majority of the board members present, may preside and conduct the hearing.*

(II) *The presiding officer shall rule on all evidentiary and procedural matters during the course of the hearing. Rulings on motions prior to or after the hearing, and the findings, conclusions, and order shall be determined by a majority of board members present. In the event a motion is filed requesting relief from a*

board order, the effects of which will occur prior to the next scheduled meeting of the board, the board president may rule on said motion, and the executive secretary shall issue the written order on behalf of the board. In the absence of the president, the first vice-president or second vice-president may rule on any motion.

(III) Prehearing discovery before a single hearing officer will normally be limited to the exchange of the name, address, and telephone number of witnesses expected to testify, a brief summary of their expected testimony, and documents intended to be introduced into evidence at hearing. The identity of witnesses and documents shall be provided by each party, and received by the other, not later than 9 calendar days prior to the hearing. Failure to comply may result, at the sole discretion of the hearing officer, in the exclusion of the witnesses and/or documents not disclosed. Any party may, at their own expense, interview identified witnesses prior to the hearing.

(IV) Discovery in hearings before the full board shall be governed by the provisions of section 12-6-119, C.R.S.

(V) An original and 10 copies of all documents intended to be introduced into evidence at hearings before the full board shall be provided for distribution to the board and the opposing party. Respondent's and applicant's exhibits shall be marked alphabetically. The Department of Revenue's exhibits shall be marked numerically. For hearings before a single board member, each party shall provide an original and copies for the opposing side and hearing officer.

(VI) License applicants shall have the burden of proof to demonstrate to the board that they meet all the qualifications for licensure. If denied a license by the board, applicants shall have the burden of proof to demonstrate that the specific reasons given in the notice of denial, should not preclude the issuance of a license. Salesperson license applicants shall provide written proof that the employing dealer is aware of the grounds giving rise to the initial license denial, and, that said dealer shall be responsible for the actions of the salesperson in the course of employment in the event that a restricted license is approved by the board.

(VII) Motions shall be served on the board through its executive secretary with proof of service on the opposing party. Except in the most extraordinary circumstances, motions shall be filed not later than 30 calendar days prior to the hearing. A response to any motion shall be filed within 5 business days of the filing of the initial motion. Failure to timely comply may result in the motion being denied. Motions will be considered by the board at its next opportunity. The pendency of motions shall not be cause to continue a scheduled hearing.

(VIII) Continuances will not be granted unless timely filed and with good cause shown. Unreasonable delay in securing legal counsel or failing to timely exercise discovery rights may not constitute "good cause", except in the most extraordinary circumstances. (1 C.C.R. 205-1)

(f.5) To summarily issue cease and desist orders on such terms and conditions and for such period of time as to the board appears fair and just to any person who is licensed by the board pursuant to this part 1 if such orders are followed by notice and a hearing pursuant to section [12-6-119](#); (SB07-221)(Effective 7-1-2007)

(g) To prescribe the forms to be used for applications for motor vehicle dealers', motor vehicle salespersons', used motor vehicle dealers', wholesale motor vehicle auction dealers', and wholesalers' licenses to be issued and to require of such applicants, as a condition precedent to the issuance of such licenses, such information concerning their fitness to be licensed under this part 1 as it may consider necessary. Every application for a motor vehicle dealer's license or used motor vehicle dealer's license shall contain, in addition to such information as the board may require, a statement of the following facts:

- (I) The name and residence address of the applicant and the trade name, if any, under which such applicant intends to conduct such applicant's business and, if the applicant is a co-partnership, the name and residence address of each member thereof, whether a limited or general partner, and the name under which the partnership business is to be conducted and, if the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors;
- (II) A complete description, including the city, town, or village, the street and number, if any, of the principal place of business, and such other and additional places of business as shall be operated and maintained by the applicant in conjunction with the principal place of business;
- (III) If the application is for a motor vehicle dealer's license, the names of the new motor vehicles that the applicant has been enfranchised to sell or exchange and the name and address of the manufacturer or distributor who has enfranchised the applicant;
- (IV) The names and addresses of the persons who shall act as salespersons under the authority of the license, if issued.

Regulation 12-6-104 (3) (g). Application Requirements.

1. No application will be considered which is not complete in every material detail, nor which is not accompanied by a remittance in full for the whole amount of the annual license fee, nor by the appropriate bond. An application received by the 15th day of the month will be reviewed for approval at the next regularly scheduled monthly business meeting of the Motor Vehicle Dealer Board.
2. If the applicant is a partnership, it shall submit with the application a certificate of partnership.
3. If the applicant is a corporation, it shall submit with the application a copy of its articles of incorporation, and if a foreign corporation, evidence of its qualification to do business within the state. In addition, each corporation applicant shall submit the names and addresses of all persons holding outstanding and issued capital stock of said corporation
4. If the applicant is a limited liability company, it shall submit with the application a copy of its articles of organization.
5. If the applicant is a limited liability partnership, it shall submit with the application a copy of its articles of association.
6. Any transfer of any percentage amount of the ownership or membership interest of any corporation, limited liability company, or limited liability partnership, holding a license under the provisions of this article shall be reported to the Board within 10 days of such transfer. Reporting requirements on stock transfers apply if the corporation is not subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended. (public corporations)
7. All such transfers shall be made on business organization letterhead and signed by an officer of the corporation, manager of a limited liability company, or a partner of a limited liability partnership, and shall include the name, address, social security number and employment of any new stockholder or partner.
8. Upon request of the Board, each applicant for a license shall provide suitable additional evidence of his residence, good character and reputation. Applicants and licensees shall also submit upon request by the Board all required information concerning financial and management associations and interests of other persons in the business, and the deed, lease, contract, or other documents governing the terms and conditions of occupancy of the place or places of business licensed or proposed to be licensed.
9. No licensee shall change the name or trade name of the business without submitting written notice to the Board, not less than ten days prior to the change.

10. All information submitted to the Board, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. The failure of an applicant or licensee to so inform the Board shall be grounds for suspension, revocation or denial of the license.

11. The Board will conduct a criminal history inquiry of all applicants for a license issued by the Board.

12. Additional places of business are allowed in the name of the principal place of business, but they must display a sign with the same name as that of the principal location as herein provided, and if other than a storage lot only, must provide adequate office facilities and the required sanitary facilities. Locations contiguous to the principal place of business will not be considered additional locations. The books and records of the additional location may be maintained at the principal place of business.

13. Additional places of business carried under a different name from those of the principal locations must be issued separate licenses, necessitating the filing of completed applications, bonds and fees.

14. A change in the operating entity in a dealer's business shall require a new application, fee and bond, and approval by the Board, prior to the licensee operating under the new entity.

15. Licensees may conduct business only under their licensed name(s), except that dealers holding multiple franchises with common ownership may advertise under a name that reflects the common ownership. For example, "John Doe Dealerships", "Joe's Automotive Group", or similar such designations which clearly reflect the common ownership of the dealer. (1 C.C.R. 205-1)

(h) To adopt a seal with the words "motor vehicle dealer board" and such other devices as the board may desire engraved thereon by which it shall authenticate the acts of its office;

(i) To require that a motor vehicle dealer's or used motor vehicle dealer's principal place of business and such other sites or locations as may be operated and maintained by such dealers in conjunction with their principal place of business have erected or posted thereon such signs or devices providing information relating to the dealer's name, the location and address of such dealer's principal place of business, the type of license held by the dealer, and the number thereof, as the board shall consider necessary to enable any person doing business with such dealer to identify such dealer properly, and for this purpose to determine the size and shape of such signs or devices, the lettering thereon, and other details thereof and to prescribe rules and regulations for the location thereof;

Regulation 12-6-104 (3) (i). The principal place of business and other locations of the dealer shall display a permanent sign thereon with letters at least six (6) inches in height, clearly visible to the major avenue of traffic, which sign shall clearly designate the name of the business for which the license application is made or under which such business is conducted. (1 C.C.R. 205-1)

(j) (I) To conduct or cause to be conducted written examinations as prescribed by the board testing the competency of all first-time applicants for a motor vehicle dealer's license, motor vehicle salesperson's license, used motor vehicle dealer's license, wholesale motor vehicle auction dealer's license, or wholesaler's license;

(II) and (III) (Deleted by amendment, L. 98, p. 592, § 4, effective July 1, 1998.)

Regulation 12-6-104 (3) (j).

1. Applicants may use the information provided by the Auto Industry Division to study for the examination. The following examination criteria shall apply to the examination process and the examination results: **1)** The numerical percentage that will constitute a passing score on the examination as determined from the ratio of questions correctly answered to questions asked shall be eighty-five percent (85%); **2)** The number of times in a calendar day that an applicant may take the examination before being timed out prior to attempting the examination again shall be two (2); **3)** The manner in which an applicant and

others shall certify both the applicant's compliance with the required examination process and the authenticity of the examination results shall be by submission of an examination affidavit on the form approved by the board. (Effective 8/30/2010)

2. An applicant shall neither request nor permit any other person, including but not limited to any person administering the examination, to take the examination on his behalf or otherwise to assist him or to participate in the taking of the examination. An applicant shall neither request nor accept answers to examination questions from any other person, including but not limited to any person administering the examination, either before or during the examination. An applicant who violates this rule is subject to denial, suspension, or revocation of his license. Any licensee who either **1)** assists an applicant in violating this rule, **2)** conspires with others in violating this rule, **3)** falsifies information regarding the results of an applicant's licensing examination, or **4)** otherwise falsely declares to the board or its representatives the manner in which an applicant took an examination, is subject to disciplinary action to the limits of the board's penal jurisdiction. (Effective 8/30/2010)

3. If an applicant is not licensed within one year of passing the examination, the score is removed from the record and the person must retake and pass the examination again, in accordance with the board's examination criteria, before a license can be issued. (Effective 8/30/2010)

4. The employing dealer or designated manager of the employing dealer, the Auto Industry Division, or a third party approved by the Board, may administer examinations.

5. If an applicant has held a license during the previous twelve months, the applicant shall not be required to retake the examination.

(k) **(l)** To prescribe a form or forms to be used as a part of a contract for the sale of a motor vehicle by any motor vehicle dealer or motor vehicle salesperson, other than a retail installment sales contract subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title [5](#), C.R.S., which shall include the following information in addition to any other disclosures or information required by state or federal law:

(A) In twelve-point bold-faced type or a size at least three points larger than the smallest type appearing in the contract, an instruction that the form is a legal instrument and that, if the purchaser of the motor vehicle does not understand the form, such purchaser should seek legal assistance;

(B) In bold-faced type, of the size specified in sub-subparagraph (A) of this subparagraph (l), an instruction that only those terms in written form embody the contract for sale of a motor vehicle and that any conflicting oral representations made to the purchaser are void;

(C) In bold-faced type, of the size specified in sub-subparagraph (A) of this subparagraph (l), a notice that fraud or misrepresentation in the sale of a motor vehicle is punishable under the laws of this state;

(D) In bold-faced type, of the size specified in sub-subparagraph (A) of this subparagraph (l), if the contract for the sale of a motor vehicle requires a single lump sum payment of the purchase price, a clear disclosure to the purchaser of that fact or, if the contract is contingent upon the approval of credit financing for the purchaser arranged by or through the motor vehicle dealer, in bold-faced type, a statement that the purchaser shall agree to purchase the motor vehicle which is the subject of the sale from the motor vehicle dealer at not greater than a certain annual percentage rate of financing, which annual percentage rate of financing shall be agreed upon by the parties and entered in writing on the contract;

(E) Except as otherwise provided under part 1 of article [1](#) of title [6](#), C.R.S., where the purchase price of the motor vehicle is not paid to the motor vehicle dealer in full at the time of consummation of the sale and the purchaser and motor vehicle dealer elect that

the motor vehicle dealer shall deliver and the purchaser shall take possession of such motor vehicle at such time, in bold-faced type, a statement that in the event financing cannot be arranged in accordance with the provisions stated in the contract, and the sale is not consummated, the purchaser shall agree to pay a daily rate and a mileage rate for use of the motor vehicle until such time as financing of the purchase price of such motor vehicle is arranged for the obligor by or through the authorized motor vehicle dealer or until the purchase price is paid to the authorized motor vehicle dealer in full by or through the obligor, which daily rate and mileage rate shall be specified and agreed upon by the parties and entered in writing on the contract;

Regulation 12-6-104 (3) (k). *Required Disclosures (1 C.C.R. 205-1)(Effective 1-1-2008)*

1. *Disclosures in the following language, in order and sequence, must be used in all contracts for the sale of any motor vehicle unless excluded by these regulations.*

DISCLOSURES REQUIRED AS PART OF A MOTOR VEHICLE/POWERSPORTS VEHICLE SALES CONTRACT

These disclosures are required by Colorado Law unless the buyer has already been given a copy of a completed retail installment sales contract that includes all disclosures required by federal and state laws. Initialing the provisions below incorporates them into your contract to purchase a Motor Vehicle/Powersports Vehicle.

Dealer/Agent's
Initials

Buyer's
Initials
A.

A. IMPORTANT NOTICE: The papers you are signing as part of this Motor Vehicle / Powersports vehicle sale are legal documents. You should read them carefully and if there is anything you do not understand, you should seek legal assistance.

B. WARNING: Only the terms and conditions written into these documents are part of the contract. Be sure that any oral representations are also written into these documents otherwise they cannot be enforced.

C. Any fraud or misrepresentation in a Motor Vehicle/Powersports Vehicle sale is punishable under Colorado State Law.

D. The contract is for cash. It requires you to pay the dealer \$_____, the total balance due after your trade-in and/or deposit(s) are deducted. Failure to pay this amount by _____ may result in the loss of any deposit(s) you have paid and/or your trade vehicle.

OR

Dealer has agreed to arrange financing for you and you agree to buy the Motor Vehicle/Powersports Vehicle if financing can be arranged at an interest rate that does not exceed _____% annual percentage rate. At this percentage rate your monthly payments would be _____ per month for _____ months, until paid in full, assuming a down payment or trade worth _____. This annual percentage rate must be agreed upon by both you and the dealer. Also, you are entitled by law to complete, written disclosure of all the loan terms and the contract is not binding until you receive such a disclosure and accept the loan terms disclosed.

E. You and the dealer have agreed that the vehicle will be delivered to you prior to the purchase price being paid in full. If financing cannot be arranged at the terms stated in the contract, and the contract is cancelled, you agree to pay the dealer \$_____ dollars per day and _____ cents per mile for your use of the vehicle from the date of delivery until the vehicle is returned to the dealer. If the contract is cancelled, it may require you to immediately return the vehicle to the dealer and to pay the cost of repair for any damage occurring to the vehicle while it is in your possession along with the agreed upon daily and mileage charges. The contract may also give the dealer the right to take the vehicle from you 24 hours after cancellation and demand for the vehicle's return. You may also be required by the contract to pay any costs the dealer may have to pay in regaining possession of the vehicle. If you owe any money from daily and mileage charges, damage repair costs or repossession costs to the dealer when the vehicle is returned, the dealer may keep your deposit(s) up to the amount owed. Otherwise, the deposit must be returned unless you have agreed that it is non-refundable.

The Colorado Motor Vehicle Dealer Board has the authority to investigate all complaints arising from the sale of a Motor Vehicle/Powersports Vehicle from a licensed dealer. **Any complaints should be forwarded in writing to the Auto Industry Division on behalf of the Dealer Board to 1881 Pierce St. #142, Lakewood, CO 80214, or you may send via fax at 303-205-5977. You may visit our website at www.colorado.gov/revenue/enforcement or contact us at 303-205-5604.**

I hereby certify that I have received a copy of this I hereby certify that I have given the buyer a copy of this disclosure.

I hereby certify that I have given the buyer a copy of this disclosure.

Dealer/Agent's Printed Name

Buyer's Printed Name

Dealer/Agent's Signature

Date

Buyer's Signature

Date

2. These disclosures may be included in a written contract of may be in a form which is incorporated by reference in a written contract.

3. The language which appears in paragraphs A, B, C, D, and E of the required disclosures above must appear in 12 point bold face type or a size at least 3 points larger than the smallest type appearing in the contract or form.

4. A copy of all disclosures must be given to the purchaser at the time of the consummation of the sale.

5. The following transactions are excluded from the application of this regulation:

- a) Sales between dealers and/or wholesalers.
- b) Sales in which a retail installment sales contract with all disclosures required by law has been executed at the time the purchaser becomes contractually obligated to purchase the vehicle.

6. When a purchase order or agreement is "subject to dealer's acceptance", the order or agreement shall state this in a conspicuous manner.

(II) The information required by subparagraph (I) of this paragraph (k) shall be read and initialed by both parties at the time of the consummation of the sale of a motor vehicle;

(III) The use of the contract form required by subparagraph (I) of this paragraph (k) shall be mandatory for the sale of any motor vehicle;

(IV) To require a licensee to include with a consumer sales contract a written notice that provides to the consumer the contact information of the board and information about the board's authority over consumer motor vehicle sales; (SB07-221)(Effective 7-1-2007)

(I) (Deleted by amendment, L. 98, p. 592, § 4, effective July 1, 1998.)

(m) (I) (A) If a hearing is held before an administrative law judge or a hearing officer designated by the board from within the board's membership, after due notice and a hearing by such judge or hearing officer pursuant to section [24-4-105](#), C.R.S., to review the findings of law and fact and the fairness of any fine imposed and to uphold such fine, to impose an administrative fine upon its own initiative, which shall not exceed ten thousand dollars for each separate offense by any licensee, or to vacate the fine imposed by the judge or hearing officer; except that, for motor vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense shall not exceed one thousand dollars. Whenever a hearing is heard by an administrative law judge, the maximum fine that may be imposed is ten thousand dollars for each separate offense by any person licensed by the board pursuant to this part 1; except that, for motor vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense may not exceed one thousand dollars. Whenever a licensing hearing is conducted by a hearing officer, the sanctions that may be recommended by the hearing officer are limited to the denial or grant of an unrestricted license or a restricted license under such terms as the hearing officer deems appropriate. Whenever a disciplinary hearing is conducted by a hearing officer, the hearing officer may only recommend a probationary period of no more than twelve months, a fine of no more than five hundred dollars, or both such probationary period and fine for each separate violation committed by a person licensed by the board.

Regulation 12-6-104 (3) (m) (I) (A). Hearing procedures before a hearing officer.

1. Hearings conducted before a single board member pursuant to section 12-6-104 (3)(m)(i)(a), C.R.S., shall be conducted in accordance with the Colorado Administrative Procedure Act, sections 24-4-104 and 105, C.R.S., and board regulation 12-6-104(3)(f).

2. The executive secretary may, on behalf of the board, assign the individual board member on a rotating basis, taking into consideration the following factors:

(A) Applicants for a salesperson license will normally be given expedited processing. The board member assigned will be that individual who is available and willing to conduct the hearing. Geographic location of the board member and the applicant shall have primary consideration.

(B) Any issue involving a complaint which may be classified as arising from a business competition issue between motor vehicle dealers, used motor vehicle dealers or wholesalers, or, a dispute involving an alleged violation of section 12-6-108 (1)(b), C.R.S., shall not be heard by a member of the board who is a party to a dispute, or who has a pecuniary interest in the outcome of the matter.

(C) "Business competition issue" is defined as a dispute or complaint arising from or directly related to market share matters, or the alleged failure to comply with regulatory or statutory requirements by any one licensee of the board, or said licensee's agent, against another licensee.

(D) Initial decisions of a single board member hearing shall be processed in accordance with the Colorado Administrative Procedure Act, sections 24-4-105 (13)-(16), C.R.S. (1 C.C.R. 205-1)

(B) The board shall promulgate rules regarding circumstances in which a board member should not act as a hearing officer in a particular matter before the board because of business competition issues connected with the parties involved in such matter.

(II) The findings of the board pursuant to subparagraph (I) of this paragraph (m) shall be final.

(n) (Deleted by amendment, L. 2007, p. 1578, § 4, effective July 1, 2007.)

(o) (I) To impose a fine of up to one thousand dollars per day per violation for any person found, after notice and hearing pursuant to section [24-4-105](#), C.R.S., to have violated the provisions of section [12-6-120](#) (2). For the purposes of this paragraph (o), the address for the notice to be given under section [24-4-105](#), C.R.S., is the last-known address for the person as indicated in the state motor vehicle records; the last-known address for the owner of the real property upon which motor vehicles are displayed in violation of section [12-6-120](#) (2) as indicated in the records of the county assessor's office; or an address for service of process in accordance with rule 4 of the Colorado rules of civil procedure.

(II) Any person who fails to pay a fine ordered by the board for a violation of section [12-6-120](#) (2) under this paragraph (o) shall be subject to enforcement proceedings, by the board through the attorney general, in the county or district court pursuant to the Colorado rules of civil procedure. Any fines collected under the provisions of this paragraph (o) shall be disposed of pursuant to section [12-6-123](#).

Regulation 12-6-104 (3) (o). *When considering whether to impose a fine and the amount of the fine, or other administrative penalty, the Board will consider aggravating and mitigating circumstances, the degree of harm to a motor vehicle purchaser, severity of offense, and whether there is a pattern of violations or repeat offenses. (1 C.C.R. 205-1)*

(4) The board shall promulgate rules by January 1, 2008, establishing enforcement and compliance standards to ensure that administrative penalties are equitably assessed and commensurate with the seriousness of the violation. (SB07-221)(Effective 7-1-2007)

Regulation 12-6-104 (4) (Effective 1-1-2008)

The Motor Vehicle Dealer Board shall apply administrative penalties in the cases it considers based upon the following compliance and enforcement standards:

1. All matters brought to the board for hearing shall be presented either electronically or in written hard copy by sworn affidavit asserting probable cause to believe that the events set forth in the affidavit constitute a violation of regulation or law which the board is empowered to enforce.
2. The investigation section of the Auto Industry Division in accordance with guidelines established in cooperation with the board will determine whether or not the results of an investigation shall be referred to the board by affidavit.
3. Except as otherwise provided for in this regulation, no complaint shall be referred to the board by the division until such time as the division has considered the licensee's response to the complaint, if any, and has substantially completed its investigation into the matters alleged.
4. A matter shall be referred to the board whenever the following conditions are met:
 - (a) When the licensee has engaged in a pattern of violations. A pattern for this purpose is defined as 2 or more founded complaints occurring within the preceding 12 months. No matter resolved by a licensee based upon the 10 day letter program of the division shall be considered for the purpose of establishing a pattern pursuant to this provision.
 - (b) When a licensee's conduct appears to the division to be willful and deliberate or the licensee's continued conduct presents a clear and present danger to the public health, safety or welfare.
 - (c) When the licensee and the complainant are unable to reach an acceptable resolution of an actionable complaint or when a licensee fails to present a reasonable offer to resolve a complaint.
 - (d) When the division determines that the conduct of any licensee is such that it cannot properly be corrected without the intervention of the board.
5. Upon presentation to the board of a matter by the division the board shall dispose of all such matters upon its review and evaluation of the affidavit of probable cause by:
 - (a) The board may accept the case for hearing and appoint itself upon unanimous vote, an administrative law judge or a hearings officer to hear the matter, as is appropriate. In all such cases the board shall refer the case to the attorney general for the commencement of formal disciplinary proceedings, drafting of notice of hearing and notice of charges and prosecution of the case.
 - (b) The board may direct the executive secretary to propose a resolution of the matter to the licensee, to attempt to enter into a stipulated disposition of the matter or to otherwise resolve the matter without a formal hearing.
 - (c) The board may refer the matter to another agency if appropriate.
 - (d) The board may refer the matter back to the division for further investigation without taking any further action at that time.
 - (e) The board may determine not to exercise any authority over the matter and advise the division that it declines to take any action and defers to the civil remedies provisions found in section 12-6-122 C.R.S.
6. The board shall, from time to time and as is appropriate and necessary agree with the division to create and update compliance and investigation guidelines to be used by the division for evaluating matters prior to referring them to the board.

7. The board shall impose administrative penalties based upon its discretion except that it may not exercise any discretion with regard to mandatory disqualifying terms and conditions established by statute. Upon exercising its discretion the board shall consider the licensee's history with the board and the impact of any monetary fine on the licensee's ability to restore any victim to the status quo.

8. Fines imposed by the board shall be punitive and not compensatory.

9. The board may reduce any fine it imposes upon a licensee by any amount said licensee pays to victims in order to restore the financial loss suffered by victims subjected to the conduct of the licensee which conduct is the subject matter giving rise to the fine imposed by the board.

10. Any licensee appearing before the board for imposition of an administrative penalty for the first time shall be subject to 50% of the fining authority of the board (or its designee) as provided for in article 6, of title 12, CRS. In addition, the board shall also consider mitigating and aggravating factors when imposing administrative penalties.

11. Any licensee appearing before the board for imposition of an administrative penalty for a second time on the same or similar offense within a 24 month period shall be subject to at least 75% of the fining authority of the board (or its designee) as provided for in article 6, of title 12, CRS. In addition, the board shall also consider mitigating and aggravating factors when imposing administrative penalties.

12. Any licensee appearing before the board for imposition of an administrative penalty for a third or more occurrence of any fineable offense within a 24 month period shall be subject to the full fining authority of the board (or its designee) as provided for in article 6, of title 12, CRS. In addition, the board shall also consider mitigating and aggravating factors when imposing administrative penalties. (1 C.C.R. 205-1)

12-6-105. Powers and duties of executive director.

(1) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, manufacturer representatives, and motor vehicle manufacturers, and shall have the following powers and duties:

(a) To promulgate, amend, and repeal reasonable rules and regulations relating to those functions the executive director is mandated to carry out pursuant to this part 1 and the laws of the state of Colorado that the executive director deems necessary to carry out the duties of the office of the executive director pursuant to this part 1;

(b) To employ, subject to the laws of the state of Colorado and after consultation with the board, an executive secretary for the board. The executive secretary shall be accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this part 1. The executive director may also employ such clerks, deputies, and assistants as the executive director considers necessary to discharge the duties imposed upon the executive director by this part 1 and to designate the duties of such clerks, deputies, and assistants.

Regulation 12-6-105 (1) (b). Powers and Duties of the Executive Secretary.

In addition to any other duties delegated to the Executive Secretary of the Motor Vehicle Dealer Board contained in the board's regulations, the Executive Secretary is delegated the authority to perform the following ministerial acts:

(I) The board permits its Executive Secretary to set and maintain the board's docket, grant motions for continuances and motions for enlargements of time, issue subpoenas, and issue final agency orders pursuant to the board's action.

(II) Board orders and correspondence may be written, signed and issued by the Executive Secretary on behalf of the board consistent with the board's action or direction. Notices of charges may be signed and

issued by the Executive Secretary after the board has referred the matter for a hearing pursuant to section 12-6-104 (3) (f) (II), C.R.S., and after drafting and review by the office of the Attorney General.

(III) The Executive Secretary is delegated the authority to conduct informal fact-finding conferences and make recommendations to the board for the granting or denying of an application for a motor vehicle salesperson license. (1 C.C.R. 205-1)

(c) To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the executive director is authorized to issue by this part 1;

Regulation 12-6-105 (1) (c). (Executive Director Regulations) All applications for licenses must be approved by the administrator before they can be issued.

An application for a new license shall be acted upon promptly and written notice of the action taken by the administrator sent to the applicant either by personal service upon him or by certified mail sent to the last address furnished to the administrator by the applicant. If the applicant becomes subject to denial, the grounds therefore shall be given to the applicant and an opportunity for a hearing provided within 30 days after notice is given to the applicant. Such hearings shall be held in accordance with and in the same manner as those hearings which involve a suspension or revocation of a license. Failure to appear for the hearing without good cause shown shall be grounds for automatic denial of the application. (1 C.C.R. 205-1)

(d) (I) To investigate upon the executive director's own initiative, upon the written and signed complaint of any person, or upon request by the board pursuant to section [12-6-104](#) (3) (f) (I), any suspected or alleged violation by any person licensed by the executive director pursuant to this part 1 of any of the terms and provisions of this part 1 or of any rule or regulation promulgated by the executive director under the authority conferred upon the executive director in this section;

(II) The investigators and their supervisors utilized by the executive director, pursuant to subparagraph (I) of this paragraph (d), while actually engaged in performing their duties, shall have the authority as delegated by the executive director to issue subpoenas in relation to performance of their duties relating to licensees who are under the jurisdiction of the executive director and the authority as delegated by the executive director to issue summonses for violations of sections [12-6-120](#) (2) and [42-6-142](#), C.R.S., to issue misdemeanor summonses for violations of section [12-6-119.5](#) (1) (a), and to procure criminal records during an investigation.

Regulation 12-6-105 (1) (d). (Executive Director Regulations) The administrator, on his own motion or upon the sworn complaint of any person, charging any licensee with a violation of any provision of the law or any rule or regulation promulgated by the administrator concerned with the sale and distribution of motor vehicles shall determine through an investigation conducted by him and his agents and representatives, the probable truth of such charge or charges. (1 C.C.R. 205-1)

(e) To prescribe the forms to be used for applications for licenses to be issued by the executive director under the provisions of this part 1 and to require of such applicants, as a condition precedent to the issuance of such licenses, such information concerning the applicant's fitness to be licensed under this part 1 as the executive director considers necessary;

Regulation 12-6-105 (1) (e). (Executive Director Regulations)

1. All applications for licenses shall be made upon forms prescribed by the administrator. No application will be considered which is not complete in every material detail, nor which is not accompanied by a remittance in full for the whole amount of the annual license fee.

If the applicant is a partnership, it shall submit with the application a certificate of partnership.

If the applicant is a corporation, it shall submit with the application a copy of its articles of incorporation, and if a foreign corporation, evidence of its qualification to do business within the state. In addition, each corporation applicant shall submit the names and addresses of all persons holding over ten percent of the outstanding and issued capital stock of said corporation. Any transfer of ten percent or more of the capital stock of any corporation holding a license under the provisions of this article shall be reported to the administrator not less than ten days prior to such transfer. All such reports shall be made on forms supplied by the administrator.

Upon request of the administrator, each applicant for a license shall provide suitable additional evidence of their residence, good character and reputation. Applicants and licensees shall also submit upon request by the administrator all required information concerning financial and management associations and interests of other persons in the business.

No licensee shall change the name or trade name of the business, his place of business or business address without submitting written notice to the administrator, not less than ten days prior to the change.

All information submitted to the administrator, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. The failure of an applicant or licensee to so inform the administrator shall be grounds for the suspension, revocation, or denial of the license.

2. A change in the operating entity of a licensee's business shall be cause for the revocation of the license and shall require a new application and fee. (1 C.C.R. 205-1)

(f) **(I)** To summarily issue cease and desist orders on such terms and conditions and for such period of time as to the executive director appears fair and just to any person who is licensed by the executive director pursuant to this part 1 if such orders are followed by notice and a hearing pursuant to section [12-6-104](#) (3) (e) (I).

(II) To issue cease and desist orders to persons acting as motor vehicle manufacturers without the manufacturer's license required by this part 1.

(III) To impose a fine, not to exceed one thousand dollars per day, for each violation of section [12-6-120](#) (1) after a notice and hearing subject to section [24-4-105](#), C.R.S

Regulation 12-6-105 (1) (f). (Executive Director Regulations) *If it shall appear from an investigation by the administrator and his agents and representatives, or shall otherwise come to the attention of the administrator that there is probable cause to believe that a licensee has violated any provision set forth in this article or any rule or regulation promulgated in accordance therewith, the administrator shall issue and cause to be served upon such licensee either by certified mail at the last address furnished the executive director by the licensee, or by personal service upon the licensee, a notice of hearing.*

A hearing shall be held at a place and time designated by the administrator on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in aggravation of the offense shall also be permitted.

After considering all the evidence and arguments presented at the hearing, the administrator will make a final determination either at the hearing or within a reasonable time thereafter, and send the licensee by certified mail at the last address furnished the administrator by the licensee or by personal service upon him a notice of final determination. In the event the licensee is found not to have violated any law, rule or regulation, the charges against him will be dismissed. If the licensee is found to have violated some law, rule or regulation, a cease and desist order shall be issued by the administrator, and in the proper case his license suspended or revoked on such terms and conditions and for such period of time as to the administrator shall appear fair and just. The decision of the administrator shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate rule, order, sanction, relief or denial thereof. Failure to appear for the hearing without good cause shown shall be grounds for automatic suspension or revocation of the license.

Cease and desist orders shall be issued by the administrator, after due notice and hearing in accordance with this article and the rules and regulations promulgated therewith for any unlawful acts engaged in by a licensee as enumerated in Section 12-6-120 (2) C.R.S., as amended. (1 C.C.R. 205-1)

(g) (Deleted by amendment, L. 92, p. 1847, § 5, effective July 1, 1992.)

(2) In the event any person fails to comply with a cease and desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further and continued violation of such order. In any such suit the final proceedings of the executive director, based upon evidence in record, shall be prima facie evidence of the facts found therein.

12-6-106. Records as evidence.

Copies of all records and papers in the office of the board or executive director, duly authenticated under the hand and seal of the board or executive director, shall be received in evidence in all cases equally and with like effect as the original thereof.

12-6-107. Attorney general to advise and represent.

(1) The attorney general of this state shall represent the board and executive director and shall give opinions on all questions of law relating to the interpretation of this part 1 or arising out of the administration thereof and shall appear for and in behalf of the board and executive director in all actions brought by or against them, whether under the provisions of this part 1 or otherwise.

(2) The board may request the attorney general to make civil investigations and enforce rules and regulations of the board in cases of civil violations and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the board.

12-6-108. Classes of licenses.

(1) Licenses issued under the provisions of this part 1 shall be of the following classes:

(a) Motor vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering new and used motor vehicles, and this form of license shall permit not more than two persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salespersons.

(b) Used motor vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering used motor vehicles only. Such license shall also permit a licensee to negotiate for a consumer the sale, exchange, or lease of used and new motor vehicles not owned by the licensee, except those vehicles defined in section [42-1-102](#) (55), C.R.S., as motorcycles and section [33-14.5-101](#) (3), C.R.S., as off-highway vehicles; however, prior to completion of such sale, exchange, or lease of a motor vehicle not owned by the licensee, the licensee shall disclose in writing to the consumer whether the licensee will receive any compensation from the consumer and whether the licensee will receive any compensation from the owner of the motor vehicle as a result of such transaction. If the licensee receives

compensation from the owner of the motor vehicle as a result of the transaction, the licensee shall include in the written disclosure the name of such owner from whom the licensee will receive compensation. This form of license shall permit not more than two persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salespersons.

Regulation 12-6-108 (1) (b) Compensation Disclosures

1. Whenever a used motor vehicle dealer negotiates the sale, exchange, or lease of a motor vehicle or used motor vehicle not owned by the used motor vehicle dealer, the following form will be deemed adequate to satisfy the disclosure requirements of section 12-6-108(1)(b), C.R.S., for the used motor vehicle dealer. This form is an example of adequate disclosure; nothing herein shall be construed to limit permissible disclosure to the information shown.

COMPENSATION DISCLOSURES

Pursuant to Colorado law, _____ hereby discloses to

(used m.v. dealer) (consumer)

1. My dealership will receive compensation from the consumer. (Check one)
_____ Yes _____ No

2. My dealership will receive compensation from the owner of the vehicle if a sale, exchange or lease is concluded. (Check one)
_____ Yes _____ No

(NAME OF OWNER)

Used Motor Vehicle Dealer Dealer # Authorized Dealer Signature Date

I have been provided a copy of the above disclosure prior to completion of such sale, exchange or lease of a motor vehicle not owned by the licensee.

Signature of Consumer Printed Name Date

(1 C.C.R. 205-1)

(c) Motor vehicle salesperson's license shall permit the licensee to engage in the activities of a motor vehicle salesperson.

Regulation 12-6-108 (1) (c).

1). A temporary license shall not issue, and a salesperson shall not be allowed to offer, negotiate or sell vehicles unless the board has received and date stamped at the main office of the Auto Industry Division a signed application, completed in every respect, with all required details and attachments, including bond, fees, and the licensing examination affidavit required by Regulation 12-6-104(3)(J). Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed. (Effective 8/30/2010)

2). All original applicants shall have a criminal history background investigation conducted prior to the issuance of a permanent license.

3). No temporary license shall issue to any person who has been the subject of disciplinary proceedings before the Board within the past 5 years, unless such disciplinary proceedings resulted in dismissal of all charges. Such person's application shall require prior Board review and approval of a license before said person shall be permitted to engage in activities requiring a salesperson license.

4). Any salesperson applicant who has been notified by the Auto Industry Division that additional documentation is required by the Board before a license can be approved, and who fails to timely comply with the request for information, shall be deemed not to have submitted a complete application and may not engage in activities requiring a motor vehicle salesperson license until the Board has reviewed and approved the application.

5). The Executive Secretary may issue a notice of denial to any applicant who fails to provide documentation as requested, if the application discloses, on its face, grounds for denial under section 12-6-118 (5) or (6), C.R.S.

6). Any person who allows such applicant to engage in activities requiring a motor vehicle salesperson license may be subject to disciplinary action for violation of section 12-6-109 C.R.S.

(c.1) (Deleted by amendment, L. 92, p. 1849, § 8, effective July 1, 1992.)

(d) Manufacturer's or distributor's license shall permit the licensee to engage in the activities of a manufacturer, distributor, factory branch, or distributor branch and to sell fire trucks.

(e) Wholesaler's license shall permit the licensee to engage in the activities of a wholesaler.

Regulation 12-6-108 (1) (e). All wholesalers must have a place of business or business address which place or address must contain an office wherein the wholesaler shall keep business books and other records. Such books and other records, excluding financial statements and tax returns shall be open to inspection Monday through Friday between 9AM and 5PM by the Board and its agents and representatives. All records, including financial records and tax returns shall be provided upon subpoena by the Board. (1 C.C.R. 205-1)

(f) Manufacturer representative's license shall permit the licensee to engage in the activities of a manufacturer representative.

(g) Buyer agent's license shall permit the licensee to engage in the activities of a buyer agent.

(h) **(I)** Wholesale motor vehicle auction dealer's license shall permit a licensee to engage in the activities of a wholesale motor vehicle auction dealer if the licensee provides auction services solely in connection with wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any other jurisdiction or in connection with the sale of government vehicles to consumers at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee. A wholesale motor vehicle auction dealer shall abide by all laws and rules of the state of Colorado. (SB07-221)(Effective 7-1-2007)

Regulation 12-6-108 (1) (h) (I). Each wholesale motor vehicle auction dealer or applicant shall report to the Board in writing whether such dealer or applicant is providing a check and title insurance policy or written guarantees of titles to its customers. A copy of such policy or guarantee shall be included with the report. Any change shall be reported to the Board in writing in one business day. (1 C.C.R. 205-1)

(II) A wholesale motor vehicle auction dealer shall maintain a check and title insurance policy for the benefit of such dealer's customers or, alternatively, a wholesale motor vehicle auction dealer shall provide written guarantees of title to such dealer's purchasing

customers and written guarantees of payment to such dealer's selling dealers with coverage and exclusions that are customary in check and title insurance policies available to wholesale motor vehicle auction dealers.

(2) Any license issued by the executive director pursuant to law in effect prior to July 1, 1992, shall be valid for the period for which issued.

(3) The licensing requirements of this part 1 shall not apply to banks, savings banks, savings and loan associations, building and loan associations, industrial banks, or credit unions or an affiliate or subsidiary of such entities in offering to sell, or in the sale of, a motor vehicle that was subject to a lease or that has been repossessed or foreclosed upon if the repossession or foreclosure is in connection with a loan made or originated in Colorado. (SB07-221)(Effective 7-1-2007)

(4) The licensing requirements of this part 1 shall not apply to an insurance company selling or offering to sell a motor vehicle through a motor vehicle dealer or used motor vehicle dealer if the vehicle is obtained by the company as a result of an insurance claim. (SB07-221)(Effective 7-1-2007)

12-6-108.5. Temporary motor vehicle dealer license.

(1) If a licensed vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has been awarded a new dealership franchise, the board may issue a temporary motor vehicle dealer's license to such purchaser or prospective purchaser. The executive director shall issue the temporary license only after the board has received the applications for both a temporary motor vehicle dealer's license and a motor vehicle dealer's license, the appropriate application fee for the motor vehicle dealer's application, evidence of a passing test score, and evidence that the franchise has been awarded to the applicant by the manufacturer. Such temporary motor vehicle dealer's license shall authorize the licensee to act as a motor vehicle dealer. Such temporary licensees shall be subject to all the provisions of this article and to all applicable rules and regulations adopted by the executive director or the board. Such temporary motor vehicle dealer's license shall be effective for up to sixty days or until the board acts on such licensee's application for a motor vehicle dealer's license, whichever is sooner.

Regulation 12-6-108.5 (1). Evidence of a passing test score shall be as required by Regulation 12-6-104(3)(J). (Effective 8/30/2010)

(2) For the purpose of enabling an out-of-state dealer to sell vehicles on a temporary basis during specifically identified events, the executive director may issue, upon direction by the board, a temporary dealer's license which shall be effective for thirty days. Such temporary license shall subject the licensee to compliance with rules and regulations adopted by the executive director or the board.

Regulation 12-6-108.5 (2). Applicants for an out-of-state temporary dealer license shall submit completed application, bond, and license fee. Specifically identified events shall include the Colorado State Fair, National Western Stock Show, and the annual Denver RV, Sports, Boat and Travel Show. Such out-of-state dealer shall provide evidence that the manufacturer has authorized the dealer to do business at such location in Colorado. No more than three out-of-state dealer licenses shall be issued to any one dealer per license year. (1 C.C.R. 205-1)

12-6-109. Display, form, custody, and use of licenses.

The board and the executive director shall prescribe the form of the license to be issued by the executive director, and each license shall have imprinted thereon the seal of their offices. The license of each motor vehicle salesperson shall be mailed to the business address where the salesperson is licensed under this article and shall be kept by the salesperson at such salesperson's place of employment for inspection by employers, consumers, the executive director, or the board. It is the duty of each motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, wholesale motor vehicle auction dealer, or used motor vehicle dealer to display conspicuously such person's own license in such person's

place of business. Each license issued pursuant to this part 1 is separate and distinct. It shall be a violation of this part 1 for a person to exercise any of the privileges granted under a license that such person does not hold, or for a licensee to knowingly allow such an exercise of privileges.

Regulation 12-6-109. *Each salesperson's license shall be posted in a conspicuous place in the dealer's place or places of business. (1 C.C.R. 205-1)*

12-6-110. Fees - disposition - expenses - expiration of licenses.

(1) There shall be collected with each application the fee established pursuant to subsection (5) of this section for each of the following licenses:

- (a) (I) Motor vehicle dealer's or used motor vehicle dealer's license;
(II) Motor vehicle dealer's or used motor vehicle dealer's license, for each place of business in addition to the principal place of business;
(III) Renewal or reissue of motor vehicle dealer's or used motor vehicle dealer's license after change in location or lapse in principal place of business;
- (b) Manufacturer's license;
- (c) Distributor's license;
- (d) Wholesaler's license;
- (e) (Deleted by amendment, L. 2003, p. 1302, § 5, effective April 22, 2003.)
- (f) Manufacturer representative's license;
- (g) Motor vehicle salesperson's license including, but not limited to, reissuing a license;
- (h) (Deleted by amendment, L. 92, p. 1851, § 11, effective July 1, 1992.)
- (i) Buyer agent's license;
- (j) Wholesale motor vehicle auction dealer's license.

(2) All such fees shall be paid to the state treasurer who shall credit the same to the auto dealers license fund.

(2.5) If an application for a buyer agent's, motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, or salesperson's license is withdrawn by the applicant prior to issuance of the license, one-half of the license fee shall be refunded.

(3) (a) Such licenses, if the same have not been suspended or revoked as provided in this part 1, shall be valid until one year following the month of issuance thereof and shall then expire; except that any license issued under this part 1 shall expire upon the voluntary surrender thereof or upon the abandonment of the licensee's place of business for a period of more than thirty days.

Regulation 12-6-110 (3) (a). Renewal of licenses

Any renewal application submitted after the expiration date of the license may be assessed a late fee as established by the Board. (1 C.C.R. 205-1)

(b) Thirty days prior to the expiration of such licenses, the executive director shall mail to any such licensee's business address of record a notice stating when such person's license is due to expire and the fee necessary to renew such license. For a salesperson or manufacturer representative, the notice shall be mailed to the address of the dealer or manufacturer where such person is licensed.

(c) Upon the expiration of such license, unless suspended or revoked, the same may be renewed upon the payment of the fees specified in this section, which shall accompany applications, and such renewal shall be made from year to year as a matter of right; except that, if a motor vehicle dealer, used motor vehicle dealer, or wholesaler voluntarily surrenders its license or abandons its place of business for a period of more than thirty days, the licensee is required to file a new application to renew its license.

(d) A transition procedure for licensees licensed prior to July 1, 1992, shall be established by the board or the executive director by rule and regulation.

(e) Notwithstanding paragraph (a) of this subsection (3), a person has a thirty-day grace period after his or her license expires, and the person may renew the license within such thirty days pursuant to paragraph (c) of this subsection (3), so long as the person has a bond in full force and effect that complies with the applicable bonding requirements of section [12-6-111](#), 12-6-112, or 12-6-112.2 during such thirty-day period. A person applying during the thirty-day grace period shall pay a late fee established pursuant to subsection (5) of this section.

(4) (Deleted by amendment, L. 92, p. 1851, § 11, effective July 1, 1992.)

(5) **(a)** The board shall propose, as part of its annual budget request, an adjustment in the amount of each fee which the board is authorized by law to collect. The budget request and the adjusted fees for the board shall reflect direct and indirect costs.

(b) Based upon the appropriation made and subject to the approval of the executive director, the board shall adjust the fees collected by the executive director so that the revenue generated from said fees covers the direct and indirect costs of administering this article. Such fees shall remain in effect for the fiscal year for which the appropriation is made.

(c) Whenever moneys appropriated to the board for its activities for the prior fiscal year are unexpended, said moneys shall be made a part of the appropriation to the board for the next fiscal year, and such amount shall not be raised from fees collected by the board or the executive director. If a supplemental appropriation is made to the board for its activities, the fees of the board and the executive director, when adjusted for the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount which is sufficient to compensate for such supplemental appropriation. Moneys appropriated to the board in the annual general appropriation bill shall be from the fund provided in section [12-6-123](#).

12-6-111. Bond of licensee.

(1) Before any motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or used motor vehicle dealer's license shall be issued by the board through the executive director to any applicant therefore, the said applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section [11-35-101](#), C.R.S., or a good and sufficient bond with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that said applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this part 1 that are designated by the board by rule in the conduct of the business for which such applicant is licensed. A motor vehicle dealer or used motor vehicle dealer shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if such dealer furnishes a bond, savings account, deposit, or certificate of deposit under section [12-6-512](#).

(2) **(a)** The purpose of the bond procured by the applicant pursuant to subsection (1) of this section and section [12-6-112.2](#) (1) is to provide for the reimbursement for any loss or damage suffered by any retail consumer caused by violation of this part 1 by a motor vehicle dealer, used motor vehicle dealer, wholesale motor vehicle auction dealer, or wholesaler. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, such consumer shall have priority to recover from the bond. The amount of the bond shall be fifty thousand dollars for a motor vehicle dealer applicant, used motor vehicle dealer applicant, wholesale motor vehicle auction dealer applicant, or wholesaler applicant except the amount of the bond shall be five thousand dollars for those dealers who sell only small utility trailers that weigh less than two thousand pounds. The aggregate liability of the surety for all transactions shall not exceed the amount of the bond, regardless of the number of claims or claimants. (SB-07-221)(Effective 7-1-2007)

(b) No corporate surety shall be required to make any payment to any person claiming under such bond until a final determination of fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. Such renewal may be done through a continuation certificate issued by the surety.

(4) Nothing in this part 1 shall interfere with the authority of the courts to administer and conduct an interpleader action for claims against a licensee's bond.

12-6-112. Motor vehicle salesperson's bond.

(1) Before any motor vehicle salesperson's license is issued by the board through the executive director to any applicant therefore, the applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section [11-35-101](#), C.R.S., or a good and sufficient bond in the amount of fifteen thousand dollars with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that said applicant shall perform in good faith as a motor vehicle salesperson without fraud or fraudulent representation and without the violation of any of the provisions of this part 1 that are designated by the board by rule. (SB07-221)(Effective 7-1-2007) A motor vehicle salesperson shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if such dealer furnishes a bond, savings account, deposit, or certificate of deposit under section [12-6-513](#).(HB07-1081)(Effective 7-1-2007)

(2) No corporate surety shall be required to make any payment to any person claiming under such bond until a final determination of fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. Such renewal may be done through a continuation certificate issued by the surety.

12-6-112.2. Buyer agent bonds.

(1) A buyer agent's license shall not be issued by the executive director to any applicant therefore until said applicant procures and files with the executive director evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section [11-35-101](#), C.R.S., or a good and sufficient bond in the amount of five thousand dollars with a corporate surety duly licensed to do business within the state and approved as to form by the attorney general. The bond shall be available to ensure that said applicant shall perform in good faith as a buyer agent without fraud or fraudulent representation and without violating any of the provisions of this part 1 that are designated by the executive director by rule.

(2) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. Such renewal may be done through a continuation certificate issued by the surety.

(3) No corporate surety shall be required to make any payment to any person claiming under such bond until a final determination of fraud or fraudulent representation has been made by the executive director or by a court of competent jurisdiction.

12-6-112.7. Notice of claims honored against bond.

(1) Any corporate surety which has provided a bond to a licensee pursuant to the requirements of section [12-6-111](#), 12-6-112, or 12-6-112.2 shall provide notice to the board and executive director of any claim which is honored against such bond. Such notice shall be provided to the board and executive director within thirty days after a claim is honored.

(2) A notice provided by a corporate surety pursuant to the requirement of subsection (1) of this section shall be in such form as required by the executive director subject to approval by the board and shall include, but shall not be limited to, the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

12-6-113. Testing licensees.

Persons applying for a motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or motor vehicle salesperson's license under this part 1 shall be examined for their knowledge of the motor vehicle laws of the state of Colorado and the rules promulgated pursuant to this part 1. If the applicant is a corporation, the managing officer shall take such examination, and, if the applicant is a partnership, all the general partners shall take such examination. No license shall be issued except upon successful passing of the examination. The board shall implement by January 1, 2008, a psychometrically valid and reliable salesperson examination that measures the minimum level of competence necessary to practice.(SB07-221)(Effective 7-1-2007) This section shall not apply to a powersports vehicle dealer, used powersports vehicle dealer, or powersports salesperson licensed pursuant to part 5 of this article. (HB07-1081)(Effective 7-1-2007)

Regulation 12-6-113. See Regulation 12-6-104 (3)(j). (Effective 8/30/10)

12-6-114. Filing of written warranties.

All licensed manufacturers shall file with the executive director all written warranties and changes in written warranties that such manufacturer makes on any motor vehicle or parts thereof. All licensed manufacturers shall file with the executive director a copy of the delivery and preparation obligations of a manufacturer's dealer, and these warranties and obligations shall constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from any express or implied warranties of the manufacturer shall constitute the manufacturer's product or warranty liability, and the manufacturer shall reasonably compensate any authorized dealer who performs work to rectify said manufacturer's product or warranty defects.

Regulation 12-6-114. (Executive Director Regulations) *The administrator, by accepting the filing of written warranties, is not authorized to mediate disputes between manufacturers, dealers and retail purchasers of motor vehicles.*

If the manufacturer provides no written warranty on any motor vehicle or parts thereof, written notice of this fact shall be given to the administrator and placed on file with him. The filing of such disclaimer of warranty shall not exempt such manufacturer from possible claims against him under this article. (1 C.C.R. 205-1)

12-6-115. Application.

(1) Application for a motor vehicle dealer's, motor vehicle salesperson's, used motor vehicle dealer's, wholesale motor vehicle auction dealer's, or wholesaler's license shall be made to the board.

(2) Application for distributor's, manufacturer representative's, or manufacturer's licenses shall be made to the executive director.

(3) All fees for licenses shall be paid at the time of the filing of application for license.

(4) All persons applying for a motor vehicle dealer's license shall file with the board a certified copy of a certificate of appointment as a dealer from a manufacturer.

(5) All persons applying for a manufacturer's or distributor's license shall file with the executive director a certified copy of their typical written agreement with all motor vehicle dealers, and also evidence of the appointment of an agent for process in the state of Colorado shall be included with the application.

Regulation 12-6-115 (5). (Executive Director Regulations) Agreement means contract or franchise or any other terminology used to describe the contractual relationship between manufacturers, distributors and motor vehicle dealers.

Manufacturers and distributors shall notify the administrator immediately of the appointment of any additional dealers, of any revisions or additions to the typical written agreement on file, or of any supplements to such agreement. Agreements are deemed to be continuing unless the manufacturer or distributor has notified the administrator of the discontinuation or cancellation of the agreement of any of its dealers.

If a manufacturer or distributor does not enter into any formal written agreement with its dealers, written notice to this effect shall be given to the administrator and placed on file by him.

The administrator may be appointed as the agent for service of process in the state of Colorado. In any case wherein a licensee or licensees are served with process by service thereof upon the administrator, the administrator shall no later than two days after the service of said process upon him mail a copy thereof to each such licensee addressed to the licensee at the last address furnished to the administrator by the licensee, by certified mail with request for return receipt. (1 C.C.R. 205-1)

(6) All persons applying for a motor vehicle dealer's license, a used motor vehicle dealer's license, a wholesaler's license, a motor vehicle auctioneer's license, or a motor vehicle salesman's license shall file with the board a good and sufficient instrument in writing in which he shall appoint the secretary of the board as the true and lawful agent of said applicant upon whom all process may be served in any action which may thereafter be commenced against said applicant arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of the violation of said applicant of any of the terms and provisions of this part 1 or any condition of the applicant's bond.

Regulation 12-6-115 (6). In any case wherein a licensee or licensees are served with process by service upon the secretary of the Board, the secretary shall, no later than two days after the service of said process upon him, mail a copy thereof to each such licensee addressed to the licensee at the last address furnished to the Board by the licensee, by certified mail with request for return receipt. A copy shall also be mailed to the surety on the licensee's bond at the address of the surety given in said bond, by certified mail with request for return receipt. (1 C.C.R. 205-1)

12-6-115 (7). Application – Pre-licensing Education

(a) A person applying for a used motor vehicle dealer's license, a wholesale motor vehicle auction dealer's license, or a wholesaler's license shall file with the board a certification that the applicant has met the educational requirements for licensure under this subsection (7). This subsection (7) shall not apply to a person who has held a license, within the last three years, as a motor vehicle dealer, used motor vehicle dealer, wholesaler, wholesale motor vehicle auction dealer, powersports vehicle dealer, or used powersports vehicle dealer under this part 1 or part 5 of this article.

(b) An applicant for a used motor vehicle dealer's license, a wholesale motor vehicle auction dealer's license, or a wholesaler's license shall not be licensed unless one of the following persons has completed an eight-hour pre-licensing education program:

- (I) The managing officer if the applicant is a corporation or limited liability company;
- (II) All of the general partners if the applicant is any form of partnership; or
- (III) The owner or managing officer if the applicant is a sole proprietorship.

(c) The pre-licensing education program shall include, without limitation, state and federal statutes and rules governing the sale of motor vehicles.

(d) A pre-licensing education program shall not fulfill the requirements of this section unless approved by the board. The board shall approve any program with a curriculum that reasonably covers the material required by this section within eight hours.

Regulation 12-6-115 (7) (d) [Eff. 12/31/2008]

1. *The board hereby delegates to the board's executive secretary the authority to execute all actions within the authority of the board respective to the Pre-licensing Education Program.*
2. *The executive secretary shall provide public notice a) immediately after the effective date of these rules, and b) once every year thereafter, by means of publication on the board's website, which public notice shall contain a general description of the Pre-licensing Education Program requirements and shall indicate the procedures by which interested persons may apply to obtain approval from the executive secretary to provide a Pre-licensing Education Program.*
3. *The executive secretary shall evaluate each Pre-licensing Education Program application for compliance with the requirements of the relevant statutes and rules.*
4. *An approval of a Pre-licensing Education Program is for a period of one year from the date of approval.*
5. *A Pre-licensing Education Program Provider can reapply by means of an updated application for an approval of its program in subsequent years.*
6. *The executive secretary shall, by means of a Letter of Approval, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been approved in its initial or a subsequent term, of the specific dates of the one-year term of the approval and of the procedures to apply to renew the approval for subsequent one-year terms.*
7. *The executive secretary shall, by means of a Letter of Denial, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been denied in its initial or a subsequent term, of the basis and reasons for the denial and the procedure to follow to appeal the denial to the board.*
8. *Any recipient of a Letter of Denial shall have the right to appeal that denial to the board by means of a request for a hearing in writing within sixty (60) days after notice of the denial.*
9. *Any approved Pre-licensing Education Program Provider or prior approved Pre-licensing Education Program Provider may bring to the board a complaint or concern about the administration of the program application and approval process. The Provider must first seek to resolve the matter with the executive secretary. The Provider may bring its complaint or concern to the board by means of a request in writing within thirty (30) days of the failure of the Provider's efforts to resolve the matter with the executive secretary.*
10. *The executive secretary shall provide to the board the name of each approved Pre-licensing Education Program Provider and the term of approval for that Provider.*

11. *The executive secretary shall post on the board's website a list of the names, addresses, and contact information, as provided to the executive secretary, for each approved Pre-licensing Education Program Provider, showing the term of approval for each Provider and the geographic scope of each Provider's program.*

12. *An approved Pre-licensing Education Program Provider that intends to cease operations, must provide the executive secretary with a written notice of cessation of its Pre-licensing Education Program at least 180 days in advance of the last date on which the Pre-licensing Education Program Provider will provide instruction in its Pre-licensing Education Program.*

13. *An approved Pre-licensing Education Program Provider shall maintain a place of business in the state of Colorado.*

14. *An approved Pre-licensing Education Program Provider shall maintain the following records at its Colorado place of business for a period of at least three (3) years from the date of the instruction of any participant: 1) the specific curriculum administered; 2) the specific handouts or other ancillary teaching materials provided or available to the participant; 3) the specific validation test or tests used; 4) the registration data for each participant, showing the participant's name, business association, date of participation, and means by which the participant was identified; 5) the specific validation test result(s) for the given participant; 6) the name of the instructor or other program authority who administered the program to the participant; and, 7) a copy of the completion certificate provided to the participant.*

15. *The executive secretary shall have the authority as a matter of routine compliance investigation, or upon the receipt of a specific complaint, to perform an investigation of the activities of a Pre-licensing Education Program Provider.*

16. *The executive secretary shall have the authority to obtain copies at no cost to the State of all materials utilized in or related to a Pre-licensing Education Program, including, but not limited to, the records of a Pre-licensing Education Program Provider respective to any or all persons who have participated in the Provider's program.*

17. *Procedures for the suspension or revocation of the approval of a Pre-licensing Education Program Provider shall be in accordance with sections 24-4-104 and 24-4-105, C.R.S.*

(e) The board may adopt rules establishing reasonable fees to be charged for the pre-licensing education program.

(f) The board may adopt reasonable rules to implement this section, including, without limitation, rules that govern:

(I) The content and subject matter of education;

Regulation 12-6-115 (7) (f) (I) [Eff. 12/31/2008]

The Pre-Licensing Education Program shall include in its content, federal and Colorado state laws and federal and Colorado state regulations governing motor vehicle dealers. The education curriculum shall contain without limitation titles 4, 5, 6, 12, 18, 39, and 42 of the Colorado Revised Statutes applicable to motor vehicle dealers and motor vehicle sales and Federal Laws and Rules applicable to motor vehicle dealers and motor vehicle sales.

(II) The criteria, standards, and procedures for the approval of courses and course instructors;

Regulation 12-6-115 (7) (f) (II) [Eff. 12/31/2008]

1. An application from a prospective Pre-licensing Education Program Provider or a renewal application of a prior-approved Pre-licensing Education Program Provider must contain each of the following items:

a. Identifying information, to include the applicant's full legal name, the mailing address of its Colorado place of business, telephone number(s), email address(es), if any, and website addresses, if any. Addresses in addition to that of the Colorado place of business may also be provided, although communications will go to the Colorado place of business only.

b. Contact information, to include the name and title of any individual(s) who have authority to speak on behalf of the applicant.

c. A Pre-licensing Education Program Proposal for the delivery of the required education. The Proposal must include each of the following items, but may include additional items: 1) the manner of completing the eight (8) required hours of classroom instruction; 2) a detailed outline of curriculum (or full course materials, if available); 3) the full legal names and dates of birth of all instructors, teachers, and curriculum preparers, and their respective educational credentials (faculty additions and changes may later be made, subject to approval by the executive secretary); 4) routine educational materials, if any, which will be made available to program participants as part of the pre-licensing education program either prior to, during, or subsequent to the classroom attendance time; 5) optional educational materials, if any, which will be made available to program participants as supplements, enhancements, or enrichments in addition to routine educational materials; 6) the testing protocols and baselines of achievement that will be used to ensure that a program participant has learned what the program is required by law to teach; and, 7) the methods that the Pre-licensing Education Program Provider will consistently use a) to establish the identity of each participant in the Pre-licensing Education Program and b) to verify that any test or examination validating achievement in the Pre-licensing Education Program is taken by the individual participant whose identity had been established and not by another person.

2. The provider of a Pre-licensing Education Program must have a minimum of three (3) years experience in the regulation and enforcement of state and federal laws governing motor vehicle dealers and motor vehicle sales, or have three (3) years experience as an instructor working for an approved Pre-licensing Education Program provider.

3. The executive secretary shall require additional information from any applicant, in the event that the application is deficient with regard to any of the noted materials, or in the event that more information is needed to reach a decision on the application.

(III) The training facility requirements; and

Regulation 12-6-115 (7) (f) (III) [Eff. 12/31/2008]

1. A Pre-licensing Education Program Provider must maintain an educational site, or sites, appropriate to classroom instruction.

2. A Pre-licensing Education Program Provider must ensure the integrity of its educational materials and the instructional records of its participants, each being subject to inspection by the executive secretary.

3. The executive secretary will evaluate each prospective Pre-licensing Education Program Provider and each prior-approved Pre-licensing Education Program Provider reapplying for program approval with regard to the above criteria.

(IV) The methods of instruction.

Regulation 12-6-115 (7) (f) (IV) [Eff. 12/31/2008]

1. The methods of instruction may vary according to the approved Pre-licensing Education Program approved for any given Pre-licensing Education Program Provider, and may include within the eight-hour classroom instruction limitation: 1) traditional or non-traditional classroom instruction geared to adult learners, with testing validation; and, 2) CD or DVD instruction, with provisions for testing validation.

2. The methods of instruction actually used must match those that were approved through the application process.

(g) An approved pre-licensing program provider shall issue a certificate to a person who successfully completes the approved pre-licensing education program. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously at the dealership's principal place of business.

Regulation 12-6-115 (7) (g) [Eff. 12/31/2008]

An approved Pre-licensing Education Program Provider shall issue a Program-completion Certificate to each person who successfully completes an approved Pre-licensing Education Program. The Certificate shall be on a form approved by the Executive Secretary and shall be issued within ten (10) days of successful completion of the Pre-licensing Education Program.

(h) An approved pre-licensing program provider shall submit a certificate to the executive director for each person who successfully completes the pre-licensing education program. The certificate may be transmitted electronically.

Regulation 12-6-115 (7) (h) [Eff. 12/31/2008]

An approved Pre-licensing Education Program Provider shall submit to the executive secretary a copy of the Program-completion Certificate for each person, who has successfully completed the approved Pre-licensing Education Program within the approved program standards, within ten (10) days of the completion of the approved program. The copy of the Program-completion Certificate may be sent by mail, by fax, or by email.

12-6-116. Notice of change of address or status.

(1) The board, through the executive director, shall not issue a motor vehicle dealer's license or used motor vehicle dealer's license to any applicant therefore who has no principal place of business as is defined in this part 1. Should the motor vehicle dealer or used motor vehicle dealer change the site or location of such dealer's principal place of business, such dealer shall immediately upon making such change so notify the board in writing, and thereupon a new license shall be granted for the unexpired portion of the term of such license at a fee established pursuant to section [12-6-110](#). Should a motor vehicle dealer or used motor vehicle dealer, for any reason whatsoever, cease to possess a principal place of business, as defined in this part 1, from and on which such dealer conducts the business for which such dealer is licensed, such dealer shall immediately so notify in writing the board and, upon demand therefore by the board, shall deliver to it such dealer's license, which shall be held and retained until it appears to the board that such licensee again possesses a principal place of business; whereupon, such dealer's license shall be reissued. Nothing in this part 1 shall be construed to prevent a motor vehicle dealer or used motor vehicle dealer from conducting the business for which such dealer is

licensed at one or more sites or locations not contiguous to such dealer's principal place of business but operated and maintained in conjunction therewith.

(2) Should the motor vehicle dealer change to a new line of motor vehicles, add another franchise for the sale of new motor vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new motor vehicles, such dealer shall immediately so notify the board. In the case of a cancellation or loss of franchise, the board shall determine whether or not by reason thereof such dealer should be licensed as a used motor vehicle dealer, in which case the board shall take up and the motor vehicle dealer shall deliver to it such dealer's license, and the board shall direct the executive director to thereupon issue to such dealer a used motor vehicle dealer's license. Upon the cancellation or loss of a franchise to sell new motor vehicles and the re-licensing of such dealer as a used motor vehicle dealer, such dealer may continue in the business for which a motor vehicle dealer is licensed for a time, not exceeding six months from the date of the re-licensing of such dealer, to enable such dealer to dispose of the stock of new motor vehicles on hand at the time of such re-licensing, but not otherwise.

(3) If a motor vehicle salesperson is discharged, leaves an employer, or changes a place of employment, the motor vehicle dealer or used motor vehicle dealer who last employed the salesperson shall confiscate and return such salesperson's license to the board. Upon being reemployed as a motor vehicle salesperson, the motor vehicle salesperson shall notify the board. Upon receiving such notification, the board shall issue a new license for the unexpired portion of such returned license after collecting a fee set pursuant to section [12-6-110](#) (5). It shall be unlawful for such salesperson to act as a motor vehicle salesperson until a new license is procured.

(4) Should a wholesaler, for any reason whatsoever, change such wholesaler's place of business or business address during any license year, such wholesaler shall immediately so notify the board.

(5) Any wholesale motor vehicle auction dealer who changes a place of business or business address during any license year shall notify the board immediately of such dealer's new business address.

12-6-117. Principal place of business - requirements.

(1) The building or structure required to be located on a principal place of business shall have electrical service and adequate sanitary facilities.

(2) (a) In no event shall a room in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this part 1, unless the entire ground floor of such hotel, apartment house, or rooming house building or such dwelling house is devoted principally to and occupied for commercial purposes and the office of the dealer is located on the ground floor thereof.

(b) A motor vehicle dealer who operates such motor vehicle dealer's business from his or her primary residence and who has been a resident of Colorado for the immediately preceding twelve-month period and is a motor vehicle dealer only because such dealer sells custom trailers for one or more manufacturers and maintains an inventory of fewer than four vehicles at all times shall be exempt from paragraph (a) of this subsection (2). Any motor vehicle dealer who is issued dealer plates in accordance with this paragraph (b) pursuant to section [42-3-116](#), C.R.S., shall only use such plates on trailers.

(3) Repealed.

(4) Nothing in this section shall be construed to exempt a motor vehicle dealer from local zoning ordinances.

Regulation 12-6-117.

1. "Adequate sanitary facilities " means a permanent sewer hookup, cesspool or septic tank with leaching field, or portable chemical toilet.

2. A dealer's license shall not be issued to a person located at a principal place of business or other additional locations unless such place of business or additional locations are owned or leased by and actually occupied by the applicant. A motor vehicle dealer's license shall be suspended or revoked if the dealer's principal place of business or other additional locations are not owned or leased by and not actually occupied by the licensee. (1 C.C.R. 205-1)

12-6-118. Licenses - grounds for denial, suspension, or revocation.

(1) A manufacturer's or distributor's license may be denied, suspended, or revoked on the following grounds:

- (a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)
- (b) Material misstatement in an application for a license;

Regulation 12-6-118 (1) (b). (Executive Director Regulations) No license shall be issued to or held by any person, unless he is with respect to his character, record and reputation, satisfactory to the administrator. (1 C.C.R. 205-1)

- (c) Willful failure to comply with any provisions of this part 1 or any rule or regulation promulgated by the executive director;
- (d) Engaging, in the past or present, in any illegal business practice.

(2) A manufacturer representative's license may be denied, suspended, or revoked on the following grounds:

- (a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)
- (b) Material misstatement in an application for a license;
- (c) Willful failure to comply with any provision of this part 1 or any rule or regulation promulgated by the executive director under this part 1;
- (d) Having indulged in any unconscionable business practice pursuant to title 4, C.R.S.;
- (e) Having coerced or attempted to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefore, or any other commodities or services which have not been ordered by said dealer;
- (f) Having coerced or attempted to coerce any motor vehicle dealer to enter into any agreement to do any act unfair to said dealer by threatening to cause the cancellation of the franchise of said dealer;
- (g) Having withheld, threatened to withhold, reduced, or delayed without just cause an order for motor vehicles, parts or accessories therefore, or any other commodities or services which have been ordered by a motor vehicle dealer;
- (h) Engaging, in the past or present, in any illegal business practice.

(3) A motor vehicle dealer's, wholesale motor vehicle auction dealer's, wholesaler's, buyer agent's, or used motor vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

- (a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)
- (b) Material misstatement in an application for a license;

Regulation 12-6-118 (3) (b). "Material misstatement" means any material false or misleading statement, omission, or misrepresentation by the applicant or a partner, officer, director, or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, regarding personal identification information, employment history, personal or business entity financial information, prior occupational licensing history, whether regarding a license issued by the Board or any other licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, and

deferred judgments, civil judgments, assurances of discontinuance, consent order/decrees, and/or stipulation arising from the operation of a business in this state or any other engaged in the sale, lease, or distribution of motor vehicles. This Regulation does not apply to shareholders of corporations that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended.

(c) Violation of any of the terms and provisions of this part 1 or any rule or regulation promulgated by the board under this part 1;

(d) Having been convicted of or pled nolo contendere to any felony, or any crime pursuant to article 3, 4, or 5 of title 18, C.R.S., or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of such conviction in any hearing held pursuant to this article.

Regulation 12-6-118 (3) (d). Dealers, wholesalers, wholesale auction dealers, officers, directors or stockholders of corporations owning five per-cent or more, licensed as such, who are convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to Article 3, 4, or 5 of Title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, shall provide to the board written notice of such conviction within thirty days after receiving such conviction. The licensee shall provide complete information including copies of such conviction and pre-sentence reports within thirty days of the conviction. (1 C.C.R. 205-1) (Effective 1-1-2008)

(e) Defrauding any buyer, seller, motor vehicle salesperson, or financial institution to such person's damage;

(f) Intentional or negligent failure to perform any written agreement with any buyer or seller;

(g) Failure or refusal to furnish and keep in force any bond required under this part 1;

(h) Having made a fraudulent or illegal sale, transaction, or repossession;

(i) Willful misrepresentation, circumvention, or concealment of or failure to disclose, through whatsoever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer;

Regulation 12-6-118 (3) (i). A copy of the completed contract form shall be given to the purchaser when signed by both parties.

A dealer, wholesaler, or auction dealer shall disclose on the contract form when a motor vehicle is known by the dealer, wholesaler or auction dealer to be a salvage vehicle as defined in C.R.S. 42-6-102(10.6), or when a motor vehicle is known to have sustained material damage at any one time from any one incident. (1 C.C.R. 205-1)

(j) Repealed.

(k) To intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold or furnished by a licensed dealer;

Regulation 12-6-118 (3) (k).

Advertising shall be construed to be misleading or inaccurate in the following particulars:

Rule 1. Advertising a motor vehicle which is not in operable condition unless specifically disclosed.

Rule 2. Advertising which would imply the dealer is going out of business when such is not the case.

Rule 3. Advertising a specific motor vehicle for sale or lease with price or terms quoted, without fully identifying the vehicle as to year, make, model and dealer stock number. Such vehicle shall be willfully shown and sold at the advertised price and/or terms while such vehicle remains unsold or unleased, for a

period of five days following the last date the ad was published, unless the ad states that the advertised price and terms are good only for a specific time and such time has elapsed. If a specific number of motor vehicles is advertised, such vehicles must have been invoiced to the dealer.

Rule 4. Using a picture or photograph of a vehicle in advertising when the picture or photograph is not the same make, year and equipment actually being offered for the price or terms advertised.

Rule 5. Advertising in such a manner which utilizes an asterisk or other reference symbols to contradict or materially change the meaning of any advertising statements.

Rule 6. Advertising used motor vehicles to create the impression that they are new or using the word 'new' when advertising used vehicles, such as 'new, used cars'. Any vehicle of the current model or the previous model year which is a used vehicle shall be so identified in any advertisement for said vehicle.

Rule 7. Advertising motor vehicles which are known by the dealer to be salvage or rebuilt from salvage, taxi cabs, flooded vehicles or police vehicles, which are not so identified in the advertisement.

Rule 8. Advertising in any manner to imply that a purchaser will be receiving benefits of any existing loan on a vehicle when no such benefit exists.

Rule 9. Advertising or making statements that are not true or that cannot or will not be honored. Advertising which creates the false impression that the purchaser will determine the terms, price or conditions of a sale, such as "write your own deal," "name your own price," "no reasonable offer refused," and "we will not be undersold." Advertising any item as "free" which is associated with or conditioned upon the negotiated sale of a motor vehicle.

Rule 10. Advertising sales prices for used motor vehicles which claim or imply a specific savings or discount without clearly and accurately documenting the basis for the savings or discount.

Rule 11. Advertising any reference to "dealer cost" or "invoice" price. Advertising the word "wholesale" in connection with the retail offering of motor vehicles.

Rule 12. Advertising a specific trade-in amount or range of amounts without, in fact, offering such a trade-in amount and, failing to disclose or advertise the M.S.R.P., sale price, or capitalized cost of the vehicle from which the trade-in will be deducted.

Rule 13. Advertising the price of a vehicle without including all costs to the purchaser at the time of delivery, except sales tax, finance charges, cost of emissions test, and transportation costs, incurred after sale, to deliver the vehicle to the purchaser at the purchaser's request.

Rule 14. Advertising any specific discount or rebate on new motor vehicles without the manufacturer's suggested retail price conspicuously stated in the ad.

Rule 15. Advertising any qualifying statement or disclosure which is not clear, conspicuous, and readable, and which is not adjacent to the offer or terms it qualifies, and in less than eight-point type. (1 C.C.R. 205-1)

Rule 16. Advertising any contest that offers to prospective participants the opportunity to receive or compete for gifts or prizes without such advertisement containing the words "no purchase or payment of any kind is necessary to enter or win this contest" in bold-faced type and at least ten-point type.

(I) To knowingly purchase, sell, or otherwise acquire or dispose of a stolen motor vehicle;

(m) For any licensed motor vehicle dealer or used motor vehicle dealer to engage in the business for which such dealer is licensed without at all times maintaining a principal place of business as required by this part 1 during reasonable business hours;

Regulation 12-6-118 (3) (m). All motor vehicle dealers and all used motor vehicle dealers must be open for business at least three (3) days per week for a continuous period of time not less than four (4) hours per day between the hours of 8 A.M. and 9 P.M.

Any dealership open less than forty (40) hours a week must post a clear and legible sign on its place of business indicating the days and hours that it is open for business. In addition such dealerships shall notify the Board in writing of any subsequent change in such periods of time.

Any dealership which will not be open for business for a period of at least two (2) weeks must post a clear and legible sign on its place of business indicating this fact as well as notifying the Board in writing of such fact.

A dealer's principal place of business shall be made available to inspection by the Board or its agents and employees at any reasonable time even if such time is outside the usual business hours posted by the dealer. (1 C.C.R. 205-1)

(n) Engaging in such business through employment of an unlicensed motor vehicle salesperson;
(o) To willfully violate any state or federal law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles;

(p) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)

(q) Repealed.

(r) Representing or selling as a new and unused motor vehicle any motor vehicle which the dealer or salesperson knows has been used and operated for demonstration purposes or which the dealer or salesperson knows is otherwise a used motor vehicle;

(s) Violating any state or federal statute or regulation issued thereunder dealing with odometers;

(t) **(I)** Selling to a retail customer a motor vehicle which is not equipped or in proper condition and adjustment as required by part 2 of article 4 of title 42, C.R.S., unless such vehicle is sold as a tow away, not to be driven;

(II) Repealed.

(t.1) Repealed.

(u) Committing a fraudulent insurance act pursuant to section 10-1-128, C.R.S.;

(v) Failure to give notice to a prospective buyer of the acceptance or rejection of a motor vehicle purchase order agreement within a reasonable time period, as determined by the board, when the licensee is working with the prospective buyer on a finance sale or a consignment sale.

Regulation 12-6-118 (3) (v).

A dealer shall give notice of rejection of financing to the prospective buyer within ten (10) calendar days from the date of the purchase order or agreement on a finance or consignment sale.

(4) A wholesaler's or wholesale motor vehicle auction dealer's license may be denied, suspended, or revoked for the selling, leasing, or offering or attempting to negotiate the sale, lease, or exchange of an interest in motor vehicles by such wholesaler or wholesale motor vehicle auction dealer to persons other than motor vehicle dealers, used motor vehicle dealers, or other wholesalers or wholesale motor vehicle auction dealers.

(5) The license of a motor vehicle salesperson may be denied, revoked, or suspended on the following grounds:

- (a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)
(b) Material misstatement in an application for a license;

Regulation 12-6-118 (5) (b)

"Material misstatement" in an application for a salesperson license means any relevant false or misleading statement, omission, or misrepresentation regarding personal identification information, employment history, prior occupational licensing history, whether regarding a license issued by the board or any other state licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, plea of nolo contendere or a plea in a deferred judgment and sentence. (1 C.C.R. 205-1)(Effective 1-1-2008)

- (c) Failure to comply with any provision of this part 1 or any rule or regulation promulgated by the board or executive director under this part 1;
(d) To engage in the business for which such licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as provided in this part 1;
(e) To intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any motor vehicle products sold or attempted to be sold by such salesperson;
(f) Having indulged in any fraudulent business practice;
(g) Selling, offering, or attempting to negotiate the sale, exchange, or lease of motor vehicles for any motor vehicle dealer or used motor vehicle dealer for which such salesperson is not licensed; except that negotiation with a motor vehicle dealer for the sale, exchange, or lease of new and used motor vehicles, except those vehicles defined in section [42-1-102](#) (55), C.R.S., as motorcycles and section [33-14.5-101](#) (3), C.R.S., as off-highway vehicles, by a salesperson compensated for said negotiation by the used motor vehicle dealer for which such salesperson is licensed shall not be grounds for denial, revocation, or suspension;

Regulation 12-6-118 (5) (g). Reissue of salesperson licenses.

1. Salespersons who change employment during their license year shall notify the Auto Industry Division, on the form prescribed by the Board, of the identity of the new employer prior to commencing employment at the new dealership.
2. Upon the submission of the notification, acknowledged by the new employing dealer, the salesperson may begin working as a salesperson at the new employing dealership.
3. After receipt of notification, the Auto Industry Division shall issue a new license to the salesperson for the remainder of the license term.
4. Any salesperson who fails to provide timely notification may be subject to disciplinary action. (1 C.C.R. 205-1)

- (h) Representing oneself as a salesperson for any motor vehicle dealer or used motor vehicle dealer when such salesperson is not so employed and licensed;
(i) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)
(j) Having been convicted of or pled nolo contendere to any felony, or any crime pursuant to article 3, 4, or 5 of title [18](#), C.R.S., or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of such conviction in any hearing held pursuant to this article.

Regulation 12-6-118 (5) (j) A salesperson who is convicted of or pled nolo contendere or a plea in a deferred judgment and sentenced to any felony or any crime pursuant to article 3, 4, or 5 of title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, must give the board written notice of such conviction within thirty days after such conviction. The licensee shall provide complete

information including copies of the conviction and pre-sentence reports within thirty days of the conviction.
(1 C.C.R. 205-1)(Effective 1-1-2008)

- (k) Having knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle;
- (l) Employing an unlicensed motor vehicle salesperson;
- (m) Violating any state or federal statute or regulation issued thereunder dealing with odometers;
- (n) Defrauding any retail buyer to such person's damage;
- (o) Representing or selling as a new and unused motor vehicle any motor vehicle which the salesperson knows has been used and operated for demonstration purposes or which the salesperson knows is otherwise a used motor vehicle;
- (p)
 - (I) Selling to a retail customer a motor vehicle which is not equipped or in proper condition and adjustment as required by part 2 of article 4 of title 42, C.R.S., unless such vehicle is sold as a tow away, not to be driven;
 - (II) Repealed.
- (p.1) Repealed.
- (q) Willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles;
- (r) Improperly withholding, misappropriating, or converting to such salesperson's own use any money belonging to customers or other persons, received in the course of employment as a motor vehicle salesperson.

(6) Any license issued pursuant to this part 1 may be denied, revoked, or suspended if unfitness of such licensee or licensee applicant is shown in the following:

- (a) The licensing character or record of the licensee or licensee applicant;
- (b) The criminal character or record of the licensee or licensee applicant;
- (c) The financial character or record of the licensee or licensee applicant;
- (d) Violation of any lawful order of the board.

Regulation 12-6-118 (6)

(a) The Board, in determining whether a licensee or license applicant has demonstrated unfitness of licensing character or record, will consider whether the licensee or license applicant or the licensee's or license applicant's partner, officer, director, or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license: **1)** has had a license fined, denied, suspended or revoked; **2)** has been determined to have violated the licensing examination procedures of Regulation 12-6-104(3)(J); or, **3)** has had any complaints, civil judgments, injunctions, consent orders/decrees, or stipulations, arising from the operation of a business in this state or any other state, engaged in the sale, lease or distribution of motor vehicles, and, if so, the nature, severity, and extent of these legal matters. This Regulation does not apply to shareholders of corporations that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended. (Effective 8/30/10)

(b) The Board, in determining whether a licensee or applicant has demonstrated unfitness of criminal character or record, will consider the nature and date of the convictions; parole or probation status; including whether the licensee or applicant has maintained satisfactory compliance; and/or restitution. A pattern of convictions which, individually may not constitute grounds for denial or disciplinary action, may, taken together constitute unfitness.

(c) The Board, in determining whether a licensee or applicant has demonstrated unfitness of financial character or record, will consider net worth, liquid assets including cash, lines of credit, marketable securities, credit reports, unpaid judgments and/or tax liens, delinquent debts, and bankruptcy status.

Applications for a motor vehicle dealer or used motor vehicle license will be closely evaluated base on the factors herein and the applicant's concept of operation for the business to assess the potential for harm to retail customers.

(I) Failure to timely pay any fine imposed by the Board, or the submission of a draft or check for the payment of any fee required by the Board which is dishonored shall be deemed to demonstrate unfitness of financial character or record.

- (7) (a)** Any license issued or for which an application has been made pursuant to this part 1 shall be revoked or denied if the licensee or applicant has been convicted of or pleaded no contest to any of the following offenses in this state or any other jurisdiction during the previous ten years:
- (I)** A felony in violation of article 3, 4, or 5 of title [18](#), C.R.S., or any similar crime under federal law or the law of any other state; or
 - (II)** A crime involving odometer fraud, salvage fraud, motor vehicle title fraud, or the defrauding of a retail consumer in a motor vehicle sale or lease transaction.
- (b)** A certified copy of a judgment of conviction by a court of competent jurisdiction of an offense under paragraph (a) of this subsection (7) is conclusive evidence of such conviction in any hearing held pursuant to this article.

12-6-119. Procedure for denial, suspension, or revocation of license - judicial review.

(1) The denial, suspension, or revocation of licenses issued under this part 1 shall be in accordance with the provisions of sections [24-4-104](#) and 24-4-105, C.R.S.; except that the discovery available under rule 26 (b) (2) of the Colorado rules of civil procedure is available in any proceeding.(SB07-221)(Effective 7-1-2007)

- (2) (a) (I)** The board shall appoint an administrative law judge pursuant to part 10 of article [30](#) of title [24](#), C.R.S., to conduct any hearing concerning the licensing or discipline of a motor vehicle dealer, used motor vehicle dealer, wholesaler, buyer's agent, or wholesale motor vehicle auction dealer; except that the board may, upon a unanimous vote of the members present when the vote is taken, conduct the hearing in lieu of appointing an administrative law judge. (SB07-221)(Effective 7-1-2007)
- (II)** Beginning July 1, 2008, the board shall issue an annual report to the executive director detailing the number of hearings held pursuant to this paragraph (a) and the number of such hearings conducted by the board. If the board conducts greater than forty percent of the hearings, the executive director shall analyze the hearing procedures and acts and issue a report to the general assembly, which shall include any recommendations of the executive director.(SB07-221)(Effective 7-1-2007)
- (b)** The board shall assign a hearing concerning the licensing or discipline of a motor vehicle salesperson to the executive director who shall appoint an officer to conduct a hearing.(SB07-221)(Effective 7-1-2007)

(3) Hearings conducted before an administrative law judge shall be in accordance with the rules of procedure of the office of administrative courts. Hearings conducted before an officer appointed by the executive director shall be in accordance with the rules of procedure established by the executive director.(SB07-221)(Effective 7-1-2007)

(4) The board may summarily suspend a licensee required to post a bond under this article if such licensee does not have a bond in full force and effect as required by this article. The suspension shall become effective upon the earlier of the licensee receiving notice of the suspension or within three days after the notice of suspension is mailed to a licensee's last-known address on file with the board. The notice may be effected by certified mail or personal delivery.(SB07-221)(Effective 7-1-2007)

(5) The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review of the board. Such proceedings shall be conducted in accordance with section [24-4-106](#) (11), C.R.S.(SB07-221)(Effective 7-1-2007)

12-6-119.5. Sales activity following license denial, suspension, or revocation - unlawful act - penalty.

- (1) (a) It shall be unlawful and a violation of this part 1 for any person whose motor vehicle dealer's, used motor vehicle dealer's, motor vehicle wholesaler's, or motor vehicle salesperson's license has been denied, suspended, or revoked to exercise any of the privileges of the license that was denied, suspended, or revoked.
- (b) A violation of paragraph (a) of this subsection (1) shall be punishable in accordance with section [12-6-121](#); except that a second or subsequent violation of said paragraph (a) shall be a class 6 felony.
- (c) In any trial for a violation of paragraph (a) of this subsection (1):
- (I) A duly authenticated copy of the board's order of denial, suspension, or revocation shall constitute prima facie evidence of such denial, suspension, or revocation;
 - (II) A duly authenticated invoice, buyer's order, or other customary, written sales or purchase document or instrument proven to be signed by the defendant and indicating the defendant's role in the purchase or sale of a motor vehicle at any motor vehicle auction, wholesale motor vehicle sales location, or retail motor vehicle sales location, as applicable, shall constitute prima facie evidence of the defendant's exercise of a privilege of licensure;
 - (III) It shall be an affirmative defense that the defendant bought or sold a motor vehicle that was, at all relevant times, intended for the defendant's own use and not bought or sold for the purpose of profit or gain; and
 - (IV) The fact that the defendant has a motor vehicle dealer's, used motor vehicle dealer's, motor vehicle wholesaler's, or motor vehicle salesperson's license, or any other license to buy and sell motor vehicles, that is issued by a state or jurisdiction other than Colorado shall not constitute a defense.

(2) Upon the defendant's conviction by entry of a plea of guilty or nolo contendere or judgment or verdict of guilt in connection with a violation of paragraph (a) of subsection (1) of this section or of section [12-6-120](#) (2) or 42-6-142 (1), C.R.S., the court shall immediately give the executive director written notice of such conviction. In addition, the court shall forward to the executive director copies of documentation of any conviction on a lesser included offense and any amended charge, plea bargain, deferred prosecution, deferred sentence, or deferred judgment in connection with the original charge.

(3) Upon receiving notice of a conviction or other disposition pursuant to subsection (2) of this section, the executive director or his or her designee shall forward such notice to the motor vehicle dealer board, which shall immediately examine its files to determine whether in fact the defendant's license was denied, suspended, or revoked at the time of the offense to which the conviction or other disposition relates. If in fact the defendant's license was denied, suspended, or revoked at the time of such offense, the board:

- (a) Shall not issue or reinstate any license to the defendant until one year after the time the defendant would otherwise have been eligible to receive a new or reinstated license; and
- (b) Shall revoke or suspend any other licenses held by the defendant until at least one year after the date of the conviction or other disposition.

12-6-120. Unlawful acts.

(1) It shall be unlawful and a violation of this part 1 for any manufacturer, distributor, or manufacturer representative:

- (a) To willfully fail to perform or cause to be performed any written warranties made with respect to any motor vehicle or parts thereof;

- (b)** To coerce or attempt to coerce any motor vehicle dealer to perform or allow to be performed any act that could be financially detrimental to the dealer or that would impair the dealer's goodwill or to enter into any agreement with a manufacturer or distributor that would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew any franchise between a manufacturer or distributor and said dealer;
- (c)** To coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefore, or any commodities or services which have not been ordered by said dealer;
- (d)** **(I)** To cancel or cause to be canceled, directly or indirectly, without just cause, the franchise of any motor vehicle dealer, and the non-renewal of a franchise or selling agreement without just cause is a violation of this paragraph (d) and shall constitute an unfair cancellation.
- (II)** As used in this paragraph (d), "just cause" shall be determined in the context of all circumstances surrounding the cancellation or non-renewal, including but not limited to:
- (A)** The amount of business transacted by the motor vehicle dealer;
 - (B)** The investments necessarily made and obligations incurred by the motor vehicle dealer, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of such investments and obligations;
 - (C)** The potential for harm to consumers as a result of disruption of the business of the motor vehicle dealer;
 - (D)** The motor vehicle dealer's failure to provide adequate service of facilities, equipment, parts, and qualified service personnel;
 - (E)** The motor vehicle dealer's failure to perform warranty work on behalf of the manufacturer, subject to reimbursement by the manufacturer; and
 - (F)** The motor vehicle dealer's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable and material.
- (III)** The following conduct by a motor vehicle dealer shall constitute just cause for termination without consideration of other factors:
- (A)** Conviction of, or a plea of guilty or nolo contendere to, a felony;
 - (B)** A continuing pattern of fraudulent conduct against the manufacturer or consumers; or
 - (C)** Continuing failure to operate for ten days or longer.
- (e)** To withhold, reduce, or delay unreasonably or without just cause delivery of motor vehicles, motor vehicle parts and accessories, commodities, or moneys due motor vehicle dealers for warranty work done by any motor vehicle dealer;
- (f)** To withhold, reduce, or delay unreasonably or without just cause services contracted for by motor vehicle dealers;
- (g)** To coerce any motor vehicle dealer to provide installment financing with a specified financial institution;
- (h)** To violate any duty imposed by, or fail to comply with, any provision of section [12-6-120.3](#), 12-6-120.5, or 12-6-120.7;
- (i)** To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or to refuse to approve, unreasonably, the change in executive management of the dealership; except that nothing in this part 1 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the manufacturer or distributor;
- (l)** To fail to provide to the motor vehicle dealer, within twenty days after receipt of a notice of intent from a motor vehicle dealer, the list of documents and information necessary to approve the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or the change in executive management of the dealership;
- (SB09-091)(Effective 7-1-2009)

- (II) To fail to confirm within twenty days after receipt of all documents and information listed in subparagraph (I) of this paragraph (i) that such documentation and information has been received; (SB09-091)(Effective 7-1-2009)
 - (III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer within sixty days after the manufacturer has received all documents and information necessary to approve the sale or transfer of ownership, or to refuse to approve, unreasonably, the change in executive management of the dealership within sixty days after the manufacturer has received all information necessary to approve the change in management; except that nothing in this part 1 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the manufacturer or distributor unless the manufacturer or distributor fails to send notice of the disapproval within sixty days after receiving all documents and information necessary to approve the sale or transfer of ownership; or (SB09-091)(Effective 7-1-2009)
 - (IV) To condition the sale, transfer, relocation, or renewal of a franchise agreement, or to condition sales, services, parts, or finance incentives, upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of such conditions by the dealer shall not constitute a violation; (SB09-091)(Effective 7-1-2009)
- (j)
 - (I) To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of manufacturing capacity, shortage of materials, freight embargo, or other cause over which the manufacturer has no control; or
 - (II) To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a prerequisite to receiving any particular model of that same line-make. For purposes of this subparagraph (II), reasonableness shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer.
 - (III) This paragraph (j) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.
- (k) To require, coerce, or attempt to coerce any motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other line-make of new motor vehicles or related products; except that this paragraph (k) shall not apply unless the motor vehicle dealer:
 - (I) Maintains a reasonable line of credit for each make or line of new motor vehicle; (SB09-091)(Effective 7-1-2009)
 - (II) Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the manufacturer; except that "reasonable facilities requirements" shall not include a requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space; and (SB09-091)(Effective 7-1-2009)
 - (III) Provides written notice to the manufacturer, distributor, or manufacturer's representative, no less than ninety days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new motor vehicles or related products; (SB09-091)(Effective 7-1-2009)
- (l)
 - (I) To fail to pay to a motor vehicle dealer, within ninety days after the termination, cancellation, or non-renewal of a franchise, all of the following:
 - (A) The dealer cost, plus any charges made by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, of unused, undamaged, and unsold motor vehicles in the motor vehicle dealer's inventory that were acquired from the manufacturer or from another motor vehicle dealer of the same line-make in the ordinary course of business within the previous twelve months; (SB09-091)(Effective 7-1-2009)

- (B)** The dealer cost, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the manufacturer's current parts catalog;
 - (C)** The fair market value of each undamaged sign owned by the motor vehicle dealer and bearing a common name, trade name, or trademark of the manufacturer if acquisition of such sign was required by the manufacturer;
 - (D)** The fair market value of all special tools and equipment that were acquired from the manufacturer or from sources approved and required by the manufacturer and that are in good and usable condition, excluding normal wear and tear; and
 - (E)** The cost of transporting, handling, packing, and loading the motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this paragraph (l).
- (ll)** This paragraph (l) shall only apply to manufacturers of recreational vehicles in cases where the manufacturer terminates, cancels, or fails to renew the recreational vehicle dealer franchise; and this paragraph (l) shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.
- (m)** To require, coerce, or attempt to coerce any motor vehicle dealer to close or change the location of the motor vehicle dealer, or to make any substantial alterations to the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of motor vehicles so as to justify such changes, in light of the current market and economic conditions;
- (n)** **(I)** To authorize or permit a person to perform warranty service repairs on motor vehicles unless the person is:
- (A)** A motor vehicle dealer with whom the manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's motor vehicles; or
 - (B)** A person or government entity that has purchased new motor vehicles pursuant to a manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by such person or entity.
- (II)** This paragraph (n) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.
- (o)** To require, coerce, or attempt to coerce any motor vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this article except in settlement of a bona fide dispute.
- (p)** To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards; (SB09-091)(Effective 7-1-2009)
- (q)** To fail to make practically available any incentive, rebate, bonus, or other similar benefit to a motor vehicle dealer that is offered to another motor vehicle dealer of the same line-make within this state; (SB09-091)(Effective 7-1-2009)
- (r)** To fail to pay to a motor vehicle dealer: (SB09-091)(Effective 7-1-2009)
- (I)** Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to exceed one year; except that:
 - (A)** If the motor vehicle dealer owns the facilities, the value of renting such facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination;

- (B) If the dealer sells recreational vehicles and a subsequent manufacturer or distributor that manufactures or distributes recreational vehicles replaces any portion of the vacated facilities, the lease or rental value shall be prorated on a monthly basis unless the dealer sells motor vehicles that are not recreational vehicles;
- (C) Nothing in this subparagraph (I) shall be construed to limit the application of paragraph (d) of this subsection (1);
- (II) Within ninety days after the termination, elimination, or cessation of a line-make, the fair market value of the motor vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under sub-subparagraphs (a) to (e) of subparagraph (I) of paragraph (I) of this subsection (1); and
- (s) To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a motor vehicle being sold at the facility. (SB09-091)(Effective 7-1-2009)
- (t) To sell or offer for sale a low-speed electric vehicle, as defined by section 42-1-102, C.R.S., for use on a roadway unless the vehicle complies with part 2 of Article 4 of Title 42, C.R.S. (SB09-075)(Effective 8-5-2009)

(2) It is unlawful for any person to act as a motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, or motor vehicle salesperson unless such person has been duly licensed under the provisions of this part 1, except for persons exempt from licensure as a manufacturer pursuant to section [12-6-102](#) (11); however, such persons shall comply with all other applicable requirements for manufacturers, including, but not limited to, those pertaining to vehicle identification numbers and manufacturers' statements of origin.

Regulation 12-6-120 (2). *The Board will entertain any petition for declaratory orders to terminate a controversy or to remove the uncertainty as to the applicability to any person of any statutory provisions, or of any rule or order of the Board concerned with this Article. (1 C.C.R. 205-1)*

- (3)** It is unlawful and a violation of this part 1 for a buyer's agent to engage in the following:
 - (a) To make a material misstatement in an application for a license;
 - (b) To willfully fail to perform or cause to be performed any written agreement with respect to any motor vehicle or parts thereof;
 - (c) To defraud any buyer, seller, motor vehicle salesperson, or financial institution;
 - (d) To intentionally enter into a financial agreement with a seller of a motor vehicle for the buyer agent's own benefit;
 - (e) To coerce any motor vehicle dealer into providing installment financing with a specified financial institution.

12-6-120.3. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules.

(1) No manufacturer shall establish an additional new motor vehicle dealer, reopen a previously existing motor vehicle dealer, or relocate an existing motor vehicle dealer without first providing at least sixty days' notice to all of its franchised dealers within whose relevant market area the new, reopened, or relocated dealer would be located. Such notice shall state:

- (a) The specific location at which the additional, reopened, or relocated motor vehicle dealer will be established;
- (b) The date on or after which the manufacturer intends to be engaged in business with the additional, reopened, or relocated motor vehicle dealer at the proposed location;
- (c) The identity of all motor vehicle dealers who are franchised to sell the same line-make of vehicles with licensed locations in the relevant market area where the additional, reopened, or relocated motor vehicle dealer is proposed to be located; and

(d) The names and addresses of the dealer-operator and principal investors in the proposed additional, reopened, or relocated motor vehicle dealer.

(1.5) A manufacturer shall reasonably approve or disapprove of a motor vehicle dealer facility initial site location or relocation request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised dealers, whichever is later, but not to exceed one hundred days. (SB09-091)(Effective 7-1-2009)

(2) Subsection (1) of this section shall not apply to:

(a) The relocation of an existing dealer within two miles of its current location; or

(b) The establishment of a replacement dealer, within two years, either at the former location or within two miles of the former location.

(3) As used in this section:

(a) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.

(b) "Relevant market area" means the greater of the following:

(I) The geographic area of responsibility defined in the franchise agreement of an existing dealer; or

(II) The geographic area within a radius of five miles of any existing dealer of the same line-make of vehicle that is located in a county with a population of more than one hundred fifty thousand or within a radius of ten miles of an existing dealer of the same line-make of vehicles that is located in a county with a population of one hundred fifty thousand or less.

(4) **(a)** If a licensee brings an action or proceeding before the executive director or a court pursuant to this part 1, the manufacturer shall have the burden of proof on the following issues:

(I) The size and permanency of investment and obligations incurred by the existing motor vehicle dealers of the same line-make located in the relevant market area;

(II) Growth or decline in population and new motor vehicle registrations in the relevant market area;

(III) The effect on the consuming public in the relevant market area and whether the opening of the proposed additional, reopened, or relocated dealer is injurious or beneficial to the public welfare; and

(IV) Whether the motor vehicle dealers of the same line-make in the relevant market area are providing adequate and convenient customer care for motor vehicles of the same line-make in the relevant market area, including but not limited to the adequacy of sales and service facilities, equipment, parts, and qualified service personnel.

(b) **(I)** In addition to the powers specified in section [12-6-105](#), the executive director has jurisdiction to resolve actions or proceedings brought before the executive director pursuant to this part 1 that allege a violation of this part 1 or rules promulgated pursuant to this part 1. The executive director may promulgate rules to facilitate the administration of such actions or proceedings, including provisions specifying procedures for the executive director or the executive director's designee to:

(A) Conduct an investigation pursuant to section [12-6-105](#) (1) (d) of an alleged violation of this part 1 or rules promulgated pursuant to this part 1, including issuance of a notice of violation;

(B) Hold a hearing regarding the alleged violation to be held pursuant to section [24-4-105](#), C.R.S.;

(C) Issue an order, including a cease and desist order issued pursuant to section [12-6-105](#) (1) (f), to resolve the notice of violation; and

(D) Impose a fine pursuant to section [12-6-105](#) (1) (f) (III).

- (II) The court of appeals has initial jurisdiction to review all final actions and orders that are subject to judicial review of the executive director made pursuant to this subsection (4). Such proceedings shall be conducted in accordance with section [24-4-106](#), C.R.S.

12-6-120.5. Independent control of dealer - definitions.

(1) Except as otherwise provided in this section, no manufacturer shall own, operate, or control any motor vehicle dealer or used motor vehicle dealer in Colorado. (SB09-091)(Effective 7-1-2009)

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

- (a) (I) Except as provided in subparagraph (II) of this paragraph (a), operation of a dealer for a temporary period, not to exceed twelve months, during the transition from one owner or operator to another independent owner or operator; except that the executive director may extend the period, not to exceed twenty-four months, upon showing the manufacturer or distributor of the need to operate the dealership for such time to achieve a transition from an owner or operator to another independent third-party owner or operator; (SB09-091)(Effective 7-1-2009)
- (II) Operation of a dealership that sells recreational vehicles for not more than eighteen months during the transition from one owner or operator to another independent owner or operator; (SB09-091)(Effective 7-1-2009)
- (b) Ownership or control of a dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;
- (c) Participation in the ownership of the dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years; and
- (d) Operation of a motor vehicle dealer if the manufacturer has no other franchised dealers of the same line-make in this state.
- (e) Ownership, operation, or control of a used motor vehicle dealer if the manufacturer owned, operated, or controlled the used motor vehicle dealer on January 1, 2009, and has continuously operated or controlled the used motor vehicle facilities after January 1, 2009. (SB09-091)(Effective 7-1-2009)

(3) As used in this section:

- (a) "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a manufacturer and a motor vehicle dealer under a franchise agreement.
- (b) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.
- (c) "Operate" means to directly or indirectly manage a motor vehicle dealer.
- (d) "Own" means to hold any beneficial ownership interest of one percent or more of any class of equity interest in a dealer, whether as a shareholder, partner, limited liability company member, or otherwise. To "hold" an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.

(4) This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

12-6-120.7. Successor under existing franchise agreement - duties of manufacturer.

(1) If a licensed motor vehicle dealer under franchise by a manufacturer dies or becomes incapacitated, the manufacturer shall act in good faith to allow a successor, which may include a family member, designated by the deceased or incapacitated motor vehicle dealer to succeed to ownership and operation of the dealer under the existing franchise agreement if:

- (a) Within ninety days after the motor vehicle dealer's death or incapacity, the designated successor gives the manufacturer written notice of intent to succeed to the rights of the deceased or incapacitated motor vehicle dealer in the franchise agreement;
- (b) The designated successor agrees to be bound by all of the terms and conditions of the existing franchise agreement; and
- (c) The designated successor meets the criteria generally applied by the manufacturer in qualifying motor vehicle dealers.

(2) A manufacturer may refuse to honor the existing franchise agreement with the designated successor only for good cause. The manufacturer may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored, and the designated successor shall supply such data promptly upon request.

- (3) (a) If a manufacturer believes that good cause exists for refusing to honor the requested succession, the manufacturer shall send the designated successor, by certified or overnight mail, notice of its refusal to approve the succession within sixty days after the later of:
- (I) Receipt of the notice of the designated successor's intent to succeed the motor vehicle dealer in the ownership and operation of the dealer; or
 - (II) The receipt of the requested personal and financial data.
- (b) Failure to serve the notice pursuant to paragraph (a) of this subsection (3) shall be considered approval of the designated successor, and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day of the notice period specified in said paragraph (a).
- (c) If the manufacturer gives notice of refusal to approve the succession, such notice shall state the specific grounds for the refusal and shall state that the franchise agreement shall be discontinued not less than ninety days after the date the notice of refusal is served unless the proposed successor files an action in the district court to enjoin such action.

(4) This section shall not be construed to prohibit a motor vehicle dealer from designating a person as the successor in advance, by written instrument filed with the manufacturer. If the motor vehicle dealer files such an instrument, that instrument governs the succession rights to the management and operation of the dealer subject to the designated successor satisfying the manufacturer's qualification requirements as described in this section.

(5) This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

12-6-121. Penalty.

Any person who willfully violates any of the provisions of this part 1 or who willfully commits any offense in this part 1 declared to be unlawful commits a class 1 misdemeanor and shall be punished as provided in section [18-1.3-501](#), C.R.S.; except that any person who violates the provisions of section [12-6-120](#) (2) commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each separate offense; except that, if the violator is a corporation, the fine shall be not less than five hundred dollars or more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars.

12-6-121.5. Fines - disposition - unlicensed sales.

Any fine collected for a violation of section [12-6-120](#) (2) shall be awarded to the law enforcement agency which investigated and issued the citation for said violation.

12-6-121.6. Drafts not honored for payment - penalties.

(1) If a motor vehicle dealer, wholesaler, or used motor vehicle dealer issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and fails to honor such draft or check, then the license of such licensee shall be subject to suspension pursuant to section [12-6-104](#) (3) (e) (I). The license suspension shall be effective upon the date of any final decision against such licensee based upon the unpaid draft or check. A licensee whose license has been suspended pursuant to the provisions of this subsection (1) shall not be eligible for reinstatement of such license and shall not be eligible to apply for any other license issued under this part 1 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full.

(2) Any motor vehicle dealer, wholesaler, or used motor vehicle dealer which issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and who fails to honor such draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency which investigated and issued the citation for said violation.

12-6-122. Right of action for loss.

(1) If any person suffers loss or damage by reason of any fraud practiced on such person or fraudulent representation made to such person by a licensed dealer or one of the dealer's salespersons acting for the dealer on such dealer's behalf or within the scope of the employment of the salesperson or suffers any loss or damage by reason of the violation by such dealer or salesperson of any of the provisions of this part 1 that are designated by the board by rule, whether or not such violation is the basis for denial, suspension, or revocation of a license, such person shall have a right of action against the dealer, such dealer's motor vehicle salespersons, and the sureties upon their respective bonds. The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson shall not be limited to the amount of their respective bonds.

(2) If any person suffers any loss or damage by reason of any unlawful act as provided in section [12-6-120](#) (1) (a), such person shall have a right of action against the manufacturer, distributor, or manufacturer representative. In any court action wherein a manufacturer, distributor, or manufacturer representative has been found liable in damages to any person under this part 1, the amount of damages so determined shall be trebled and shall be recoverable by the person so damaged. Any person so damaged shall also be entitled to recover reasonable attorney fees as part of his or her damages.

(3) If any licensee suffers any loss or damage by reason of any unlawful act as provided in section [12-6-120](#) (1), such licensee shall have a right of action against such manufacturer, distributor, or manufacturer representative. In any court action wherein a manufacturer, distributor, or manufacturer representative has been found liable in damages to any licensee under this part 1, any licensee so damaged shall also be entitled to recover reasonable attorney fees as part of his or her damages.

12-6-122.5. Contract disputes - venue - choice of law.

(1) In the event of a dispute between a motor vehicle dealer and a manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

- (a) At the option of the motor vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and
- (b) Colorado law shall govern, both substantively and procedurally.

12-6-123. Disposition of fees - auto dealers license fund.

(1) All moneys received under this part 1, except fines awarded pursuant to section [12-6-121.5](#), shall be deposited with the state treasurer by the department of revenue, subject to the provisions of section [24-35-101](#), C.R.S., together with a detailed statement of such receipts, and such funds deposited with the

state treasurer shall constitute a fund to be known as the auto dealers license fund, which fund is hereby created and which shall be used under the direction of the board in the following manner:

(a) Repealed.

(b) **(I)** For the payment of the expenses of the administration of the board as the general assembly deems necessary by making an appropriation therefore on an annual fiscal-year basis commencing July 1, 1971, and thereafter.

(II) Any money remaining in said fund on December 31, 1971, and at the close of each calendar year thereafter, after costs of administration of the law as provided in this part 1 shall remain in the auto dealers license fund to be used for educational and enforcement purposes as appropriated by the general assembly.

(c) To pay the department of revenue for the administration of actions or proceedings brought before the executive director pursuant to section [12-6-120](#).

(2) **(a)** Notwithstanding any provision of subsection (1) of this section to the contrary, on March 27, 2002, the state treasurer shall deduct one million one hundred thousand dollars from the auto dealers license fund and transfer such sum to the general fund; except that, if the balance of moneys in the auto dealers license fund on March 27, 2002, is less than one million one hundred thousand dollars, the state treasurer shall transfer the balance of moneys in the fund to the general fund.

(b) Notwithstanding any provision of subsection (1) of this section to the contrary and in addition to any amount transferred pursuant to paragraph (a) of this subsection (2):

(I) On May 28, 2002, the state treasurer shall transfer an amount equal to the balance of the auto dealers license fund as of April 30, 2002, to the general fund.

(II) Except as otherwise provided in this subparagraph (II), for each succeeding calendar month of the 2001-02 fiscal year, through June 30, 2002, the state treasurer shall transfer the amount of moneys credited to the auto dealers license fund during such calendar month to the general fund no later than the last day of the month in which such moneys were credited to the auto dealers license fund. However, the aggregate amount of moneys transferred from the auto dealers license fund to the general fund pursuant to paragraph (a) of this subsection (2), subparagraph (I) of this paragraph (b), and this subparagraph (II) shall not exceed one million one hundred thousand dollars.

12-6-124. Repeal of article.

This article is repealed, effective July 1, 2017. Prior to such repeal, the motor vehicle dealer board and the functions of the executive director, including licensing, shall be reviewed as provided for in section [24-34-104](#), C.R.S. (SB07-221)(Effective 7-1-2007)

12-6-125. Advertisement - inclusion of dealer name.

No motor vehicle dealer or used motor vehicle dealer or any agent of either of said dealers shall advertise any offer for the sale, lease, or purchase of a motor vehicle or a used motor vehicle which creates the false impression that the vehicle is being offered by a private party or by a motor vehicle agent or which does not contain the name of the dealer or the word "dealer" or, if the name is contained in the offer and does not clearly reflect that the business is a dealer, both the name of the dealer and the word "dealer".

12-6-126. Audit reimbursement limitations - dealer claims.

(SB09-091)(Effective 7-1-2009)

(1) **(a)** A manufacturer, distributor, or manufacturer representative shall have the right to audit warranty, sales, or incentive claims of a motor vehicle dealer for fifteen months after the date the claim was submitted.

(b) A manufacturer, distributor, or manufacturer representative shall not require documentation for warranty, sales, or incentive claims or audit warranty, sales, or incentive claims of a motor

vehicle dealer more than twenty-four months after the date the claim was submitted, nor shall the manufacturer require a charge back, reimbursement, or credit against a future transaction arising out of an audit or request for documentation arising more than fifteen months after the date the claim was submitted.

(2) The motor vehicle dealer shall have fifteen months after making a sale or providing service to submit warranty, sales, or incentive claims to the manufacturer, distributor, or manufacturer's representative.

(3) Subsection (1) of this section shall not limit any action for fraud instituted in a court of competent jurisdiction.

(4) A motor vehicle dealer may request a determination from the executive director, within thirty days, that a charge back, reimbursement, or credit required violates subsection (1) of this section. If a determination is requested within the thirty-day period, then the charge back, reimbursement, or credit shall be stayed pending the decision of the executive director. If the executive director determines after a hearing that the charge back, reimbursement, or credit violates subsection (1) of this section, the charge back, reimbursement, or credit shall be void.

12-6-127. Reimbursement for right of first refusal. A manufacturer or distributor shall pay reasonable attorney fees, not to exceed the usual and customary fees charged for the transfer of a franchise, and reasonable expenses that are incurred by the proposed owner or transferee before the manufacturer or distributor exercised its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or the transfer of assets. Payment of attorney fees and expenses is not required if the claimant has failed to submit an accounting of attorney fees and expenses within twenty days after the receipt of the manufacturer's or dealer's written request for an accounting. An expense accounting may be requested by the manufacturer or distributor before exercising its right of first refusal. (SB09-091)(Effective 7-1-2009)

SUNDAY CLOSING LAW (TITLE 12, ARTICLE 6, PART 3, C.R.S.)

12-6-301. Definitions.

As used in this part 3, unless the context otherwise requires:

- (1) "Motor vehicle" means every self-propelled vehicle intended primarily for use and operation on the public highways and every vehicle intended primarily for operation on the public highways which is not driven or propelled by its own power, but which is designed either to be attached to or become a part of a self-propelled vehicle; it does not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

12-6-302. Sunday closing.

No person, firm, or corporation, whether owner, proprietor, agent, or employee, shall keep open, operate, or assist in keeping open or operating any place or premises or residences, whether open or closed, for the purpose of selling, bartering, or exchanging or offering for sale, barter, or exchange any motor vehicle, whether new, used, or secondhand, on the first day of the week commonly called Sunday. This part 3 shall not apply to the opening of an establishment or place of business on the said first day of the week for other purposes, such as the sale of petroleum products, tires, or automobile accessories, or for the purpose of operating and conducting a motor vehicle repair shop, or for the purpose of supplying such services as towing or wrecking. The provisions of this part 3 shall not apply to the opening of an establishment or place of business on the said first day of the week for the purpose of selling, bartering, or exchanging or offering for sale, barter, or exchange any boat, boat trailer, snowmobile, or snowmobile trailer.

12-6-303. Penalties.

Any person, firm, partnership, or corporation who violates any of the provisions of this part 3 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than seventy-five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or the court, in its discretion, may suspend or revoke the Colorado motor vehicle dealer's license issued under the provisions of part 1 of this article, or by such fine and imprisonment and suspension or revocation.

EMISSIONS LAW (TITLE 42, ARTICLE 4, PART 3, C.R.S.)

42-4-304. Definitions relating to automobile inspection and readjustment program.

As used in sections [42-4-301](#) to 42-4-316, unless the context otherwise requires:

- (3) (d) Subject to section [42-4-310](#) (4), the certification of emissions control shall be obtained by the seller and transferred to the new owner at the time of vehicle sale or transfer.

42-4-309. Vehicle fleet owners - motor vehicle dealers - authority to conduct inspections - fleet inspection stations - motor vehicle dealer test facilities - contracts with licensed inspection-only entities.

- (1) (a) Any person in whose name twenty or more motor vehicles, required to be inspected, are registered in this state or to whom said number of vehicles are leased for a period of not less than six continuous months and who operates a motor vehicle repair garage or shop adequately equipped and manned, as required by section [42-4-308](#) and the rules and regulations issued pursuant thereto, may be licensed to perform said inspections as a fleet inspection station. Said inspections shall be made by licensed emissions inspectors or emissions mechanics. Such stations shall be subject to all licensing regulations and supervision applicable to inspection and readjustment stations. Fleet inspection stations shall inspect fleet vehicles in accordance with applicable requirements pursuant to rules and regulations promulgated by the commission. No person licensed pursuant to this section may conduct emissions inspections on motor vehicles owned by employees of such person or the general public, but only on those vehicles owned or operated by the person subject to the fleet inspection requirements. Any such motor vehicles are not eligible for a certificate of emissions waiver and shall be inspected annually. The commission shall promulgate such rules as may be necessary to establish non-loaded mode static idle inspection procedures, standards, and criteria under this section.
- (b) Each fleet operator licensed or operating within the enhanced program area who is also licensed to operate a fleet inspection station shall assure that a representative sample of one-half of one percent or one vehicle, whichever is greater, of such operator's vehicle fleet is inspected annually at an inspection-only facility or enhanced inspection center. An analysis of the data gathered from any such inspection shall be performed by the department of public health and environment and provided to the department of revenue to determine compliance by such fleet with the self-inspection requirements of this section. An inspection is not required prior to the sale of a motor vehicle with at least twelve months remaining before the vehicle's certification of emissions compliance expires if such certification was issued when the vehicle was new.
- (2) (a) As an alternative to subsection (1) of this section, any person having twenty or more vehicles registered in this state that are required to be inspected pursuant to section [42-4-310](#) may contract for periodic inspection services with a contractor or an inspection-only facility. Such inspections shall be in compliance with non-fleet vehicle requirements as specified in this part 3 and shall be performed by an authorized or licensed emissions inspector who shall be subject to all requirements and oversight as applicable.
- (b) Upon retail sale of any vehicle subject to fleet inspection to a party other than a fleet operator, such vehicle shall be inspected at an authorized enhanced inspection center, licensed inspection-

only facility, or licensed inspection and readjustment station, as applicable. A certificate of emissions compliance shall be required as a condition of the retail sale of any such vehicle.

- (3) (a) Any person licensed as a motor vehicle dealer pursuant to article [6](#) of title [12](#), C.R.S., in whose name twenty or more motor vehicles are registered or inventoried or consigned for retail sale in this state which are required to be inspected shall comply with the requirements of section [42-4-310](#) for the issuance of a certificate of emissions compliance at the time of the retail sale of any such vehicle.
- (b) Within the enhanced emissions program, motor vehicle dealers licensed pursuant to article [6](#) of title [12](#), C.R.S., may contract for used motor vehicle inspection services by a licensed motor vehicle dealer test facility. Pursuant to regulations of the commission, inspection procedures shall include a loaded mode transient dynamometer test cycle in combination with appropriate idle short tests pursuant to rules and regulations of the commission.
- (c) 1981 and older model vehicles held in inventory and offered for retail sale by a used vehicle dealer may be inspected by a licensed inspection-only facility.
- (d) Within the basic emissions program, any person licensed as a motor vehicle dealer pursuant to article [6](#) of title [12](#), C.R.S., may be licensed to conduct inspections pursuant to subsections (1) and (2) of this section.
- (4) Nothing in this section shall preclude a fleet or motor vehicle dealer test facility from participating in the basic or enhanced emissions program pursuant to this part 3 with the requirements of such program being determined by the county of residence or operation.
- (5) (a) Motor vehicle dealers selling any vehicle to be registered in the enhanced program area shall comply with the enhanced program requirements.
- (b) Motor vehicle dealers selling any vehicle to be registered in the basic program area shall comply with the basic program requirements.
- (c) If used motor vehicles for sale have been inspected by a motor vehicle dealer test facility, the motor vehicle dealer shall comply with the standards and requirements established for motor vehicle dealer test facilities.
- (6) (a) On and after June 1, 1996, a motor vehicle dealer or a used motor vehicle dealer licensed pursuant to article [6](#) of title [12](#), C.R.S., that sells any vehicle subject to the provisions of the enhanced emissions program may comply with the provisions of sections [42-4-304](#) (3) (d) and [42-4-310](#) by providing the consumer of the vehicle a voucher purchased by the dealer from the contractor for the centralized enhanced emissions program, with or without charge to the consumer, up to the maximum amount charged for an emissions inspection at an enhanced inspection center. Such voucher shall cover the cost of an emissions inspection of the vehicle at an enhanced inspection center and shall entitle the consumer to such an emissions inspection.
- (b) If a vehicle inspected with a voucher as authorized in this paragraph (b) fails a test at an enhanced inspection center and is returned within three business days after its purchase, the dealer, at its option, shall repair the motor vehicle to pass the emissions test, pay the consumer to obtain such repairs to pass the emissions test from a third party, or repurchase the vehicle at the vehicle's purchase price. After such payment, repair, or repurchase, a dealer shall have no further liability to the consumer for compliance with the requirements of the enhanced emissions program.
- (c) The voucher to be delivered at time of sale shall set forth the conditions described in paragraph (b) of this subsection (6) on a form prescribed by the department of revenue.
- (7) A motor vehicle dealer shall have a motor vehicle inspected annually pursuant to section [42-4-310](#), but shall not be required to have such vehicle inspected more than once a year.

[42-4-310. Periodic emissions control inspection required.](#)

(1)(a)(I) Subject to subsection (4) of this section, a motor vehicle that is required to be registered in the program area shall not be sold, registered for the first time without a certification of emissions compliance, or reregistered unless such vehicle has passed a clean screen test or has a valid certification of emissions control as required by the appropriate county. The provisions of this paragraph (a) shall not apply to motor vehicle transactions at wholesale between motor vehicle dealers licensed pursuant to article 6 of title 12, C.R.S. An inspection is not required prior to the sale of a motor vehicle with at least twelve months remaining before the vehicle's certification of emissions compliance expires if such certification was issued when the vehicle was new.

- (4)**
- (a)** The seller of a motor vehicle that is inoperable or otherwise cannot be tested in accordance with rules promulgated by the department of revenue or that is being sold pursuant to part 18 or part 21 of this article is not required to obtain a certification of emissions control prior to the sale of the vehicle if the seller provides a written notice to the purchaser prior to completion of the sale that clearly indicates the following:
 - (I)** The vehicle does not currently comply with the emissions requirements for the program area;
 - (II)** The seller does not warrant that the vehicle will comply with emissions requirements;and
 - (III)** The purchaser is responsible for complying with emissions requirements prior to registering the vehicle in the emissions program area.
 - (b)** The department shall prepare a form to comply with the provisions of paragraph (a) of this subsection (4) and shall make such form available to dealers and other persons who are selling motor vehicles which are inoperable or otherwise cannot be tested in accordance with regulations promulgated by the department of revenue.
 - (c)** If a motor vehicle is exempted from the requirement for obtaining a certification of emissions control prior to sale pursuant to this subsection (4), the new owner of the motor vehicle is required to obtain a certification of emissions control for such motor vehicle before registering it in the program area.

42-4-406. Requirement of certification of emissions control for registration - testing for diesel smoke opacity compliance.

- (1)**
- (a)** A diesel vehicle in the program area that is registered or required to be registered pursuant to article 3 of this title, routinely operates in the program area, or is principally operated from a terminal, maintenance facility, branch, or division located within the program area shall not be sold, registered for the first time, or reregistered unless such vehicle has been issued a certification of emissions control within:
 - (I)** The past twelve months if the motor vehicle is a heavy-duty diesel vehicle that is over ten model years old;
 - (II)** The last twenty-four months if the motor vehicle is a heavy-duty diesel vehicle that is ten model years old or newer;
 - (III)** The last twelve months if the motor vehicle is a light-duty diesel vehicle that is at least ten model years old or that is model year 2003 or older; or
 - (IV)** The last twenty-four months if the motor vehicle is a light-duty diesel vehicle that is ten model years old or newer and that is model year 2004 or newer.
 - (b)**
 - (I)** A certification of emissions control shall be issued to any diesel vehicle that has been inspected and tested pursuant to subsection (2) of this section for diesel smoke opacity compliance and was found at such time to be within the smoke opacity limits established by the commission.
 - (II)** Notwithstanding the provisions of subparagraph (I) of this paragraph (b), new diesel vehicles, required under this section to have a certification of emissions control, shall be issued a certification of emissions compliance without inspection or testing. Prior to the expiration of such certification, such vehicle shall be inspected and a certification of

emissions control shall be obtained for diesel smoke opacity compliance. Such certificate shall expire on the earliest to occur of the following:

- (A) The anniversary of the day of the issuance of such certification when such vehicle has reached its fourth model year if it is a light-duty diesel vehicle;
- (B) The anniversary of the day of the issuance of such certification when such vehicle has reached its fourth model year if it is a heavy-duty diesel vehicle; or
- (C) On the date of the transfer of ownership if such date is within twelve months before such certification would expire pursuant to sub-subparagraph (A) or (B) of this subparagraph (II), unless such transfer of ownership is a transfer from the lessor to the lessee.

- (2) (a) On or after January 1, 1990, all heavy duty diesel vehicles in the program area not subject to the provisions of section [42-4-414](#), with fleets of nine or more, shall be required to be tested for diesel smoke opacity compliance at a licensed diesel inspection station by submitting to loaded mode opacity testing utilizing dynamometers or on-road tests as prescribed by the commission.
- (b) Light-duty diesel vehicles in the program area shall be required to be tested for diesel smoke opacity compliance at a licensed diesel inspection station by submitting to loaded mode opacity testing utilizing dynamometers.

42-4-414. Heavy-duty diesel fleet inspection and maintenance program - penalty.

- (2) (c) Such rules shall exempt a new diesel vehicle from testing until such vehicle has reached its second model year if it is a light-duty diesel vehicle, its fourth model year if it is a heavy-duty diesel vehicle, or until the date of the transfer of ownership prior to such expiration if such transfer is within twelve months before such exemption ends.

ODOMETER LAW
Used Motor Vehicle Sales
(TITLE 12, ARTICLE 6, PART 2, C.R.S.)

42-6-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) **"Owner"** means the person who holds the legal title of a motor vehicle, but, in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right to purchase upon the performance of the conditions stated in the agreement and with an immediate right to possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, or mortgagor shall be deemed the owner.

(2) **"Person"** means an individual, firm, association, corporation, or partnership.

(3) **"Private sale"** means a sale or transfer of a used motor vehicle between two persons neither of whom is a used motor vehicle dealer.

(4) **"Retail used motor vehicle sale"** means a sale or transfer of a used motor vehicle from a used motor vehicle dealer to a person other than a used motor vehicle dealer.

(5) **"Sale"** means that the buyer of the used motor vehicle has paid the purchase price or, in lieu thereof, has signed a purchase contract or security agreement and has taken physical possession or delivery of the used motor vehicle.

(6) **"Sale between used motor vehicle dealers"** means a sale or transfer of a used motor vehicle from one used motor vehicle dealer to another.

(7) "Sale from an owner other than a used motor vehicle dealer to a used motor vehicle dealer" means any sale, trade-in, or other transfer of a used motor vehicle from a person other than a used motor vehicle dealer to a used motor vehicle dealer.

(8) "Used motor vehicle" means every self-propelled motor vehicle having a gross weight of less than sixteen thousand pounds that has been sold, bargained for, exchanged, given away, leased, loaned, or driven as a "company executive car" or the title to which has been transferred from the person who first acquired it from the manufacturer or importer and it is so used as to have become what is commonly known as "secondhand" within the ordinary meaning thereof. A previously untitled motor vehicle that has been driven by the dealer for more than one thousand five hundred miles, excluding mileage incurred in the transit of the motor vehicle from the manufacturer to the dealer or from another dealer to the dealer, shall be considered a "used motor vehicle". This shall not apply to any automobile manufactured before January 1, 1942.

(9) "Used motor vehicle dealer" means any licensed motor vehicle dealer, used motor vehicle dealer, or wholesaler as defined by the introductory portions to section [12-6-102](#) (13) and (17) and section [12-6-102](#) (18), C.R.S.

42-6-202. Prohibited acts.

(1) It is unlawful for any person to advertise for sale, to sell, to use, or to install or to have installed any device which causes an odometer to register any mileage other than the true mileage driven. For purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

(2) It is unlawful for any person or the person's agent to disconnect, reset, or alter the odometer of any motor vehicle with the intent to change the number of miles indicated thereon.

(3) It is unlawful for any person, with the intent to defraud, to operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

(4) Nothing in this part 2 shall prevent the service, repair, or replacement of an odometer, if the mileage indicated thereon remains the same as before the service, repair, or replacement. When the odometer is incapable of registering the same mileage as before such service, repair, or replacement, the odometer shall be adjusted to read zero, and a notice in writing shall be attached to the left door frame of the vehicle by the owner or the owner's agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alteration of such notice so affixed is unlawful.

(5) It is unlawful for any transferor to fail to comply with 49 U.S.C. sec. 32705 and any rule concerning odometer disclosure requirements or to knowingly give a false statement to a transferee in making any disclosure required by such law.

42-6-203. Penalty. A violation of any of the provisions of section [42-6-202](#) is a class 1 misdemeanor.

42-6-204. Private civil action.

(1) Any person who, with intent to defraud, violates any requirement imposed under this part 2 shall be liable in an amount equal to the sum of:

(a) Three times the amount of actual damages sustained or three thousand dollars, whichever is greater; and

(b) In the case of any successful action to enforce said liability, the costs of the action together with reasonable attorney fees as determined by the court

(2) An action to enforce any liability created under subsection (1) of this section must be brought within the time period prescribed in section [13-80-102](#), C.R.S.

(3) There shall be no liability under this section if a judgment has been entered in federal court pursuant to section 409 of the "Motor Vehicle Information and Cost Savings Act", Public Law 92-513.

TITLE LAW

(TITLE 42, ARTICLE 6, PART 1, C.R.S.)

42-6-109. Sale or transfer of vehicle.

(1) Except as provided in section [42-6-113](#), no person shall sell or otherwise transfer a motor vehicle to a purchaser or transferee without delivering to such purchaser or transferee a certificate of title, which may be electronic, to such vehicle duly transferred in the manner prescribed in section [42-6-110](#). No purchaser or transferee shall acquire any right, title, or interest in and to a motor vehicle purchased by such purchaser or transferee unless and until he or she obtains from the transferor the certificate of title duly transferred in accordance with this part 1. A lien holder may request either a paper or electronic version of a certificate of title.

(2) A paper copy of a certificate of title shall be necessary for any transaction in which:

- (a) Either party to the transaction is located outside Colorado; or
- (b) The purchaser pays for a motor vehicle entirely with cash.

42-6-110. Certificate of title - transfer.

(1) Upon the sale or transfer of a motor vehicle for which a certificate of title has been issued or filed, the person in whose name the certificate of title is registered, if such person is other than a dealer, shall execute a formal transfer of the vehicle described in the certificate. Such transfer shall be affirmed by a statement signed by the person in whose name the certificate of title is registered or by such person's authorized agent or attorney and shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section [18-8-503](#), C.R.S. The purchaser or transferee, within sixty days thereafter, shall present such certificate, together with an application for a new certificate of title, to the director or one of the authorized agents, accompanied by the fee required in section [42-6-137](#) to be paid for the filing of a new certificate of title.

(3) A person who violates subsection (1) of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than six months, or by both such fine and imprisonment.

42-6-111. Sale to dealers - certificate need not issue.

(1) Upon the sale or transfer to a dealer of a motor vehicle for which a Colorado certificate of title has been issued, the certificate of title to the motor vehicle shall be transferred and filed; except that, so long as the vehicle remains in the dealer's possession and at the dealer's place of business for sale and for no other purpose, such dealer shall not be required to procure or file a new certificate of title as is otherwise required in this part 1.

(2) If a motor vehicle dealer wishes to obtain a new certificate of title to a motor vehicle, such dealer may present the old certificate of title to the director with the fee imposed by section [42-6-137](#) (6), whereupon, the director shall issue a new certificate of title to such dealer within one working day after application. This subsection (2) shall not apply to a motor vehicle subject to a lien.

(3) (a) A wholesale motor vehicle auction dealer who does not buy, sell, or own the motor vehicles transferred at auction shall disclose the identity of the wholesale motor vehicle auction dealer, the

date of the auction, and the license number of the auction on a form and in a manner prescribed by the executive director. A wholesale motor vehicle auction dealer does not become an owner by reason of such disclosure nor as a result solely of the guarantee of title, guarantee of payment, or reservation of a security interest.

(b) A wholesale motor vehicle auction dealer may buy or sell motor vehicles at wholesale in such dealer's own name and, in such instances, shall comply with the provisions of this part 1 applicable to dealers, including licensing.

42-6-112. Initial registration of a motor vehicle - dealer responsibility to timely forward certificate of title to purchaser or holder of a chattel mortgage.

In order to facilitate initial registration of a vehicle, a dealer of motor vehicles shall have not more than thirty days after the date of sale of such vehicle to deliver or facilitate the delivery of the certificate of title to a purchaser or the holder of a chattel mortgage on such motor vehicle, subject to section [42-6-109](#).

42-6-113. New vehicles - bill of sale - certificate of title.

Upon the sale or transfer by a dealer of a new motor vehicle, such dealer shall, upon delivery, make, execute, and deliver to the purchaser or transferee a sufficient bill of sale and the manufacturer's certificate of origin. The bill of sale shall be affirmed by a statement signed by such dealer, shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section [18-8-503](#), C.R.S., shall be in such form as the director may require, and shall contain, in addition to other information that the director may by rule require, the make and model of the motor vehicle so sold or transferred, the identification number placed upon the vehicle by the manufacturer for identification purposes, the manufacturer's suggested retail price, and the date of the sale or transfer, together with a description of any mortgage or lien on the vehicle that secures any part of the purchase price. Upon presentation of such a bill of sale to the director or an authorized agent, a new certificate of title for the vehicle described in the bill of sale shall be filed. A new motor vehicle that is used by a dealer for demonstration shall be transferred in accordance with this section.

42-6-119. Certificates for vehicles registered in other states.

(1) When a resident of the state acquires the ownership of a motor vehicle for which a certificate of title has been issued by a state other than Colorado, the person acquiring such vehicle shall apply to the director or an authorized agent for the filing of a certificate of title as in other cases.

(2) If a dealer acquires the ownership of a motor vehicle by lawful means and the motor vehicle is titled under the laws of a state other than Colorado, such dealer shall not be required to file a Colorado certificate of title for the vehicle so long as such vehicle remains in the dealer's possession and at the dealer's place of business solely for the purpose of sale.

(3) Upon the sale by a dealer of a motor vehicle, the certificate of title to which was issued in a state other than Colorado, the dealer shall, within thirty days after the date of sale, deliver or facilitate the delivery to the purchaser such certificate of title from a state other than Colorado duly and properly endorsed or assigned to the purchaser with a statement by the dealer that shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section [18-8-503](#), C.R.S., and that shall set forth the following:

(a) That such dealer has warranted and, by the execution of such affidavit, does warrant to the purchaser and all persons who shall claim through the purchaser named that, at the time of the sale, transfer, and delivery by the dealer, the vehicle described was free and clear of all liens and mortgages except as might therein appear;

(b) That the vehicle is not a stolen vehicle; and

(c) That such dealer had good, sure, and adequate title to, and full right and authority to sell and transfer, the vehicle.

(4) If the purchaser of the vehicle completes and includes the vehicle identification number inspection form as part of the application for filing of a Colorado certificate of title to such vehicle and accompanies the application with the affidavit required by subsection (3) of this section and the duly endorsed or assigned certificate of title from a state other than Colorado, a Colorado certificate of title may be filed in the same manner as upon the sale or transfer of a motor vehicle for which a Colorado certificate of title has been issued or filed. Upon the filing by the director or the authorized agent of such certificate of title, the director or the authorized agent may dispose of such certificate of title and shall record such certificate of title as provided in section [42-6-124](#).

Dealer Title

Basis: The statutory bases for this regulation are 42-1-204, 42-6-102(2), 42-6-111(2), 42-6-137(6), 42-6-138(4) CRS. [Eft 03/02/2007](#)

Purpose: The purpose of this regulation is to provide guidelines to motor vehicle dealers or wholesalers for proof of ownership and the requirements for the processing of certificates of title.

Definitions

"Agent for a Dealership" - means any individual authorized by a dealership to act in behalf of that dealership.

"Manufacturer" - means any person, firm, partnership, corporation or association, resident or nonresident, engaged in the manufacturing or assembling of new motor vehicles, trailers, trailer coaches or semi-trailers.

"Manufacturer Certificate of Origin" (MCO) - means the document provided by the manufacturer which sets forth the manufacturer's vehicle description and 17 digit vehicle identification number. Said document is used to convey ownership from the manufacturer to the franchised dealer and from the franchised dealer to the consumer.

"One Working Day" - means a 24-hour period beginning and ending at 3:00 p.m. Monday through Friday, with the exception of those days designated as official state holidays by statute or Executive Order of the Governor.

"Short Check" - means a check that has been returned to the Department for insufficient funds, and which would be subject to additional fees as required in C.R.S. 16-7-404.

"Letter of Authorization" - means a letter on dealership or wholesaler's letterhead from a designated representative of a dealership to the Department authorizing specific persons to act as agents in behalf of their dealership or the wholesaler.

Proof of Ownership Requirements

Dealers or wholesalers required proof of ownership - All Colorado dealers must have the following evidence of ownership for every motor vehicle in their possession:

1. A used vehicle with a Colorado title:
 - a. A Colorado title assigned to the dealership, wholesaler, or chain of ownership evidenced by the Colorado Dealer's Bill(s) of Sale for a Motor Vehicle.
 - b. Odometer disclosure if required.

2. A used vehicle with an out-of-state title:
 - a. The out-of-state title assigned to the dealership, wholesaler, or out-of-state title with proper chain of ownership.
 - b. Odometer disclosure if required.
 - c. Colorado Dealer's Out-of-State Vehicle Information Disclosure.
 - d. Verification of vehicle identification number.
3. A new vehicle assigned by MCO to a licensed Colorado dealer. (No dealer shall hold a MCO unless he is enfranchised to sell that specific make of vehicle):
 - a. Manufacturer's Certificate of Origin (MCO) assigned or reassigned to the franchised dealership.
 - b. Odometer disclosure if required.
4. A new vehicle assigned by MCO from an out-of-state enfranchised dealer to an enfranchised Colorado dealer. (No dealer shall hold a MCO unless enfranchised to sell that specific make of vehicle):
 - a. Manufacturer's Certificate of Origin (MCO) reassigned to the enfranchised dealership.
 - b. Odometer disclosure if required.
 - c. Verification of vehicle identification number.
5. If a title or an MCO has been surrendered by the dealer or wholesaler to a bank or financing organization or any other person as collateral, the dealer or wholesaler must have in his possession evidence acceptable to the Director of the location of the title or the MCO. The dealer's or wholesaler's right to ownership shall be clear from such evidence. The title or MCO must be procured by the dealer or wholesaler upon the sale and delivery of the vehicle and delivered or mailed to the purchaser or chattel mortgage company within thirty (30) days.
6. Vehicles with incomplete or insufficient titles shall be marked "Not for Sale" and withheld from any public offering.
7. Vehicles held by dealers or wholesalers to be junked or parted out must be marked "JUNK" on the face of the title. The "JUNK" notation is to be dated and identified as to who declared the vehicle junk. The title must be submitted to the Department of Revenue, Motor Vehicle Business Group, Title Section, 1881 Pierce Street, Lakewood, Colorado 80214. A photocopy of the title marked "JUNK", either in the name of the dealership or wholesaler or assigned to the dealership or wholesaler, shall be kept with the vehicle to serve as proof of ownership. The purchaser of any component parts which are identified with a vehicle identification number shall be given a photocopy of the "JUNK" title with the sales receipt."
8. Inspections will be made of all titles and vehicles in dealer's or wholesaler's stock and those vehicles not having proper or complete titles will be impounded on the dealer's or

wholesaler's lot until proper evidence of ownership is in the dealer's or wholesaler's possession.

Requirements for Obtaining Titles in One Working Day

Securing Certificates of Title - Licensed Colorado Motor Vehicle Dealers and Wholesalers may obtain a "Dealer Resale, No Sales Taxes Paid" title in the licensed name of the dealership or wholesaler within one working day at the Department of Revenue, Motor Vehicle Business Group, Title Section in certain instances and upon payment of the proper fee (\$25).

All dealers or wholesalers requesting one day service shall submit a letter of authorization to the Department, listing names of all persons that will be acting as agents in their behalf. All authorization letters will be kept on file at the Department. It shall be the responsibility of the requesting dealer or wholesaler to notify the Department of any changes in agents.

The agent shall be required to present personal picture identification at the time of application and upon receipt of a certificate of title. The agent shall sign verifying receipt of the certificate of title.

Agents representing several dealerships or wholesalers must have authorization from each individual dealership.

Requirements for Acceptance of Applications

1. Applications will be accepted when:

The supporting ownership document is a Manufacturer's Certificate of Origin (MCO) assigned to a licensed Colorado dealer.

The supporting ownership document is a title assigned to a licensed Colorado dealer or wholesaler.

The supporting ownership document is a salvage title for a vehicle that has been made roadworthy and is being submitted for a dealer title in the dealership or wholesaler's name.

2. Applications must be free and clear of all liens and encumbrances.
3. All applications must be complete and all documents in the proper order, or they shall be subject to rejection.
4. The intent is to provide one-day service to all dealerships and wholesalers. The Department has established a limit of a maximum of three (3) title applications per day. The Department reserves the right to modify the quantity limitations.

Processing Timeframes

Applications submitted prior to 3:00 p.m. of the first working day may be picked up after 3:00 p.m. of the next working day.

One working day processing is contingent upon applications clearing computer edits, document review, and extraordinary circumstances beyond the control of the Department.

Overnight mail service will be accepted. Prepaid return envelopes must be provided to ensure return of certificates of title by overnight service. Otherwise, all other titles will be mailed by First Class Mail.

Titles not picked up by the eight (8th) working day after the printing of the title will be automatically mailed by First Class Mail.

Duplicate Certificates of title

Only licensed Colorado new and used motor vehicle dealers may, at the Department's discretion, obtain duplicate certificates of title directly from the Department of Revenue, Title Section.

Licensed New or Used Motor Vehicle dealers may obtain duplicate certificates of title for vehicles that have been "traded-in" to them, but the owner has lost, misplaced, or accidentally destroyed the certificate of title.

The licensed new or used motor vehicle dealer must provide a power of attorney from the previous owner and the vehicle must be in the dealer's possession before application will be accepted.

Certificates of title showing an active recorded lien will be mailed to the lien holder. However, if a proper lien release is submitted with the duplicate application, the satisfied lien will be removed from the duplicate.

Payment

Applications will not be processed until payment is made.

Any check returned for insufficient funds (short check), will require any and all future payments by that dealership to be made by cash or certified funds.

Refunds will be processed at the discretion of the Department. (1 C.C.R. 204-14)

VEHICLE REGISTRATION, DEALER PLATES & PERMITS (TITLE 42, ARTICLE 3, PART 1, C.R.S.)

42-3-116. Manufacturers or dealers.

(1) Upon application using the proper form and payment of the fees required by law, a manufacturer of, drive-away or tow-away transporter of, or dealer in, motor vehicles, trailers, special mobile machinery, or semi-trailers operating such vehicle upon any highway, in lieu of registering each vehicle, may obtain from the department and attach to each such vehicle one number plate, as required in this article for different classes of vehicles. Such plate shall bear a distinctive number; the name of this state, which may be abbreviated; the year issued; and a distinguishing word or symbol indicating that such plate was issued to a manufacturer, drive-away or tow-away transporter, or dealer. Such plates may, during the registration period for which they were issued, be transferred from one such vehicle to another when owned and operated by or with the authority of such manufacturer or representative of such manufacturer or operated by such drive-away or tow-away transporter or dealer.

(2) No manufacturer of or dealer in motor vehicles, trailers, or semi-trailers shall cause or permit a vehicle owned by such person to be operated or moved upon a public highway without displaying upon such vehicle a number plate, except as otherwise authorized in this article.

(3) A manufacturer of motor vehicles, trailers, or semi-trailers may operate or move upon the highways any such vehicle from the factory where manufactured to a railway depot, vessel, or place of shipment or delivery, without registering the same and without an attached number plate, under a written permit first obtained from the police authorities with jurisdiction over such highways and upon displaying upon each such vehicle a placard bearing the name and address of the manufacturer authorizing or directing such movement, plainly readable from one hundred feet away during daylight.

(4) (a) Any dealer in motor vehicles, trailers, or semi-trailers may operate, move, or transport a vehicle owned by such dealer on the streets and highways of this state without registering such vehicle and without an attached numbered plate if there is displayed on such vehicle a depot tag issued by the department. Such tag may be purchased from the department for a fee of five dollars. Such tags shall only be used for moving authorized vehicles for purposes of testing, repairs, or transporting them from the point of delivery to the dealer's place of business and for similar legitimate business purposes; but nothing in this section shall be construed to allow the use of such tag for private purposes.

(b) The executive director of the department shall promulgate rules for the use of depot tags and dealer plates, and a violation of such rules shall subject the violator to a suspension or revocation of the violator's depot tag and dealer plates after a hearing pursuant to article [4](#) of title [24](#), C.R.S.

(5) A manufacturer or dealer, upon transferring a motor vehicle, trailer, or semi-trailer, whether by sale, lease, or otherwise, to any person other than a manufacturer or dealer shall immediately give written notice of such transfer to the department upon the form provided by the department. Such notice shall contain the date of such transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be required by the department.

(6) (a) (I) An application for a full-use dealer plate may be submitted by a motor vehicle dealer or wholesaler who:

(A) Has sold more than twenty-five motor vehicles in the twelve-month period preceding application;

(B) Purchases an existing motor vehicle dealership or wholesale business that has sold more than twenty-five vehicles during the twelve-month period preceding application; or

(C) Obtains a license to operate a new or used motor vehicle dealership or wholesale business with an inventory of fifty or more motor vehicles.

(II) Full-use dealer plates may be used in lieu of, in the same manner as, and to the same extent as number plates issued pursuant to section [42-3-201](#).

(b) (I) The department shall issue full-use dealer plates upon payment of the fee specified in subparagraph (II) of this paragraph (b) and upon application of a motor vehicle dealer or wholesaler accompanied by satisfactory evidence that the applicant is entitled to the plate in accordance with the criteria established in subparagraph (I) of paragraph (a) of this subsection (6).

(II) The annual fee for full-use dealer plates shall be established and adjusted annually by the department based on the average of specific ownership taxes and registration fees paid for passenger vehicles and light duty trucks that are seven model years old or newer and that were registered during the one-year period preceding January 1 of each year. Such annual fee shall be prorated on a monthly basis. The annual fee for full-use dealer plates for motorcycles shall be established and adjusted annually by the department based on the average of specific ownership taxes and registration fees paid for motorcycles that are seven model years old or newer and that were registered during the one-year period preceding January 1 of each year. Such annual fee for motorcycles shall be prorated on a monthly basis.

(III) Full-use dealer plates shall be valid for a period not to exceed one year.

(IV) Each full-use dealer plate shall be returned to the department within ten days after the sale or closure of a motor vehicle dealership or wholesale business listed in an application submitted pursuant to subparagraph (I) of this paragraph (b).

(c) Full-use dealer plates may be used only for vehicles owned and offered for sale by the dealer or wholesaler. Full-use dealer plates shall not be used on vehicles owned by dealerships or wholesalers that are commonly used by that dealer as tow trucks or vehicles commonly used by that dealer to pick up or deliver parts. At the dealer's or wholesaler's discretion, the full-use plate may be transferred from one motor vehicle to another motor vehicle. The dealer or wholesaler shall not be required to report any such transfer to the department.

(d) A motor vehicle dealer or wholesaler may assign a full-use dealer plate only to the following persons:

(I) Owners or co-owners of the licensed dealership or wholesale motor vehicle business;

(II) An employee of the motor vehicle dealer or wholesaler;

(III) To any person, including former, current, and prospective customers, in order to serve the legitimate business interest of the motor vehicle dealership or motor vehicle wholesale business; and

(IV) A spouse or dependent child living in the same household as the licensed dealer or wholesaler.

(e) As used in this subsection (6), "motor vehicle dealer or wholesaler" includes motor vehicle dealers, used motor vehicle dealers, and wholesalers as those terms are defined in section [12-6-102](#) (13), (17), and (18), C.R.S.

42-3-304. Registration fees - passenger and passenger-mile taxes - clean screen fund - repeal.

(5) In lieu of registering each vehicle separately, a dealer in motorcycles, motorscooters, or motorbicycles shall pay to the department an annual registration fee of twenty-five dollars for the first license plate issued pursuant to section [42-3-116](#) (1), a fee of seven dollars and fifty cents for each additional license plate so issued up to and including five such plates, and a fee of ten dollars for each license plate so issued in excess of five.

(6) In lieu of registering each vehicle separately:

(a) A dealer in motor vehicles, trailers, and semi-trailers, except dealers in motorcycles, motorscooters, and motorbicycles, shall pay to the department an annual fee of thirty dollars for the first license plate issued pursuant to section [42-3-116](#) (1), and a fee of seven dollars and fifty cents for each additional license plate so issued up to and including five, and a fee of ten dollars for each license plate so issued in excess of five; and

(b) A manufacturer of motor vehicles shall pay to the department an annual fee of thirty dollars for the first license plate issued pursuant to section [42-3-116](#) (1), and a fee of seven dollars and fifty cents for each additional license plate so issued up to and including five, and a fee of ten dollars for each additional license plate issued.

(8) (a) Subsections (5), (6) (a), and (7) of this section shall not apply to a motor vehicle, trailer, or semitrailer operated by a dealer or transporter for such dealer's or transporter's private use or to a motor vehicle bearing full-use dealer plates issued pursuant to section [42-3-116](#) (6) (d).

(b) Paragraph (b) of subsection (6) of this section shall only apply to a motor vehicle if owned and operated by a manufacturer, a representative of a manufacturer, or a person so authorized by the manufacturer. A motor vehicle bearing manufacturer plates shall be of a make and model of the current or a future year and shall have been manufactured by or for the manufacturer to which such plates were issued.

Dealer Full Use License Plates

Basis: The statutory bases for this regulation are 42-1-204, 42-3-116 (6) CRS. Eff 03/02/2007

Purpose: The following rules and regulations are promulgated to establish criteria for the issuance and use of full-use dealer plates.

Definitions

1. Closure - Voluntary closure by the dealer owner, permanent or temporary closure by order of the Colorado Motor Vehicle Dealer Board, or any failure to maintain the required place of business or business address.
2. "Offered for sale" - a vehicle is deemed to be offered for sale when the following requirements are met:
 - a. Title to the vehicle has been properly assigned to the dealership, or if a new motor vehicle, evidence of a manufacturer's certificate of origin (mco) for the vehicle; and
 - b. The vehicle is identified on the dealership inventory list maintained by the dealership and offered for sale.
3. "Legitimate business interest" -
 - A. One or more specific and identifiable reasons as to why the use of a full use plated vehicle by a person serves the bona fide business needs of the dealership or motor vehicle wholesale business; and
 - B. Use of the vehicle is in exchange for services benefiting the bona fide business needs.

Requirements

1. Every license year, all applicants for full-use dealer plates shall complete and submit to the Department of Revenue, Enforcement Business Group, Auto Industry Division, a Dealer Plate Affidavit in order to receive approval for purchase of full-use dealer plates. Once authorized for a license year, dealers or wholesalers have no restrictions on the number of full-use dealer plates they may purchase.
2. Full-use dealer plates may be obtained by a duly licensed new or used motor vehicle dealer or wholesaler, from the county Clerk in the county where the dealership is located, or in Denver County, from the Manager of Revenue.
3. Any dealer or wholesaler changing names shall report the new name to the Department of Revenue, Enforcement Business Group, Auto Industry Division. Upon approval, the Auto Industry Division will provide the dealer with a name change affidavit that shall be presented to the County Clerk, or in Denver County, the Manager of Revenue, who shall transfer the dealer plates into the new dealership name.
4. If a dealer or wholesaler changes operating entity (individual to partnership, corporation, LLC or other variations), an original application must be filed with the Colorado Motor Vehicle Dealer Board. Upon approval, a new dealer license with plate authorization will be issued. Full-use dealer plates belonging to the replaced entity must be surrendered to the Department of Revenue, Enforcement Business Group, Auto Industry Division. New full-use dealer plates must be purchased in the new entity name.

5. The full-use dealer plate registration in the name of the dealership must be maintained in the vehicle bearing such plate, or taped to the back of the plate, or in the possession of the driver.
6. A copy of dealer proof of ownership (such as MCO, dealer title, title assigned to dealership) must be maintained in the motor vehicle being driven on a full-use dealer plate.
7. A lost, stolen, or missing full-use dealer plate shall be reported within two (2) working days to the local law enforcement agency. Lost plates may be replaced through the County Clerk, or in Denver County, the Manager of Revenue upon submission of a police report and the payment of a \$5.00 replacement fee. The County Clerk will submit the copy of the police report to the Department of Revenue, Enforcement Business Group, Auto Industry Division for notation on the appropriate motor vehicle and law enforcement files.
8. Dealers shall maintain a record of all full-use dealer plates issued to the dealership and the identification of the vehicle and person in possession of each plate. The dealer shall further maintain proof of ownership and an inventory list of all vehicles available for sale. Such records shall be made available upon request of the department.
9. Full-use dealer plates cannot be displayed on vehicles that are used by the dealership for any commercial purpose. Such vehicles shall be titled and registered in the name of the dealership.
10. Whenever a dealer ceases to be a dealer due to closure as defined above, any plates that are not in the dealer's possession shall be reported on an affidavit and submitted to the Department in order that the missing plates can be denoted upon the appropriate motor vehicle law enforcement files. (1 C.C.R. 204-14)

Issuance of Dealer Demo License Plates

Basis: The statutory bases for this regulation are 42-1-204, 42-3-116 CRS. [Eff 03/02/2007](#)

Purpose: The following rules and regulations are promulgated to establish criteria for the issuance and use of dealer demo plates.

Requirements

1. Dealer demo plates may be obtained by a duly licensed new or used motor vehicle dealer or wholesaler from the County Clerk in the county where said dealership is located, or in Denver County, from the Manager of Revenue. The Department of Revenue, Enforcement Business Group, Auto Industry Division, will issue the dealer or wholesaler a license with plate authorization that must be presented to the issuing agency at the time of application for dealer demo plates.

Use of Dealer Demo License Plates

Requirements

1. A dealer demonstration plate can be displayed ONLY on vehicles owned by or consigned to the dealer or the wholesaler. Proof of ownership is shown by a Manufacturer's Certificate of Origin (MCO), title or consignment agreement properly assigned in the dealer's licensed name.

2. A dealer demo plate may be used on a vehicle operated by a prospective buyer. Demonstration drives by a prospective purchaser cannot exceed seven (7) calendar days. The dealer must issue an authorization letter to any prospective buyer demo-driving the vehicle after the dealer's NORMAL business hours on day one. The authorization letter must include the following: name and address of the prospective buyer; make, model and VIN of the demonstrator vehicle; the demo plate number; and the start and end dates of the demo drive (which may not exceed seven (7) calendar days). The customer must keep the authorization letter in the vehicle at all times and present it to a law enforcement officer upon request.
3. A prospective buyer may use a dealer demo plate with a dealership employee in the vehicle during the dealer's NORMAL business hours.
4. A dealership employee, during NORMAL business hours of the dealership, may use a dealer demo plate for conducting legitimate dealership business.
5. A dealer demo plate may not be used on any vehicle that has been sold and is in the possession of the purchaser, or upon any vehicle leased or rented by such dealer.
6. A dealer demo plate may not be used on vehicles that are being delivered to the purchaser.
7. Owners and employees of the dealer may not operate a demo-plated vehicle for their private purposes or use a demo plate on any commercial vehicle.
8. Demo plates may not be displayed on any of the following vehicles owned by the dealer: tow vehicles, parts pickup/delivery vehicles, service department loaners, courtesy shuttle vehicles, rental vehicles, haulers, or any vehicle bearing the dealer's name or advertisement (other than the small dealer badge normally affixed to the rear of the vehicle, or the license plate holder bearing the dealer's name). Such vehicles shall be titled and registered in the name of the dealership.
9. A dealer demo plate shall not be loaned to charitable organizations for use in charitable activities, parades or shows.
10. A dealer demo plate shall not be loaned or given to any person for use other than prospective buyers for demonstration purposes. "Person" includes, but is not limited to, athletes, coaches, celebrities, media personalities, accountants and lawyers.
11. A lost, stolen or missing dealer demo plate shall be reported within two (2) working days to the local law enforcement agency, and then to the Department of Revenue, Enforcement Business Group, Auto Industry Division. The dealer may replace lost plates through the County Clerks, or in Denver County, the Manager of Revenue. All lost dealer demo plates shall be replaced upon payment of the full fee. A damaged dealer demo plate may be turned in and replaced for the replacement fee.
12. All dealer demo plates must be surrendered immediately to the Department of Revenue, Enforcement Business Group, Auto Industry Division, whenever the dealer, through either a voluntary or involuntary action, ceases to be a motor vehicle dealer. Any dealer demo plates that are not in the dealer's possession shall be reported as lost or stolen to the local law enforcement, and then to the Department of Revenue, Enforcement Business Group, Auto Industry Division.
13. All dealer demo plates owned by a new or used motor vehicle dealer or wholesaler whose license has been suspended by the Colorado Motor Vehicle Dealer Board shall be surrendered to the Department of Revenue, Enforcement Business Group, Auto Industry Division, in compliance with the terms set forth by the Motor Vehicle Dealer Board.

14. A change of dealership operating entity status requires the submission of an original dealer application to the Department of Revenue, Enforcement Business Group, Auto Industry Division. If approved, a new dealer license number with plate authorization will be issued. Once approval is granted, the dealer license and license plates from the old entity must be surrendered to the Auto Industry Division within ten (10) business days.
15. If a currently licensed entity obtains approval from the Department of Revenue, Enforcement Business Group, Auto Industry Division, for a name change, the Enforcement Business Group, Auto Industry Division and the Motor Vehicle Business Group, Title Section will jointly issue a memorandum of name change to the county clerks. Upon receipt of the memorandum, the county clerks will change the plate registration file to the new licensed name.
16. Dealers shall maintain a record of all dealer demo plates issued to the dealership and the name, address and phone number of the individual authorized to use the demo plates.
17. Any use of a dealer demo plate other than those defined in these rules may result in loss of the dealer's privilege to use dealer demo plates. (1 C.C.R. 204-14)

In-Transit License Plates

Basis: The statutory bases for this regulation are 42-1-204, 42-3-116 and 42-3-304 (6)(a) CRS. [Eff 03/02/2007](#)

Purpose: The following rules and regulations are promulgated to clarify the criteria for issuance and use of in-transit plates.

Requirements

In-transit plates may be obtained by a duly licensed new or used motor vehicle dealer, wholesaler, or a wholesale motor vehicle auction from the County Clerk in the county where the business is located or, if in Denver County, from the Manager of Revenue.

New or used motor vehicle dealers, wholesalers, and wholesale auctions may purchase as many in-transit plates as needed upon submission of a copy of their valid dealer's or wholesaler's license.

The following rules are promulgated to clarify the use of in-transit plates:

Any licensed Colorado new or used motor vehicle dealer or wholesaler may use an in-transit plate in intra-state and inter-state transport of motor vehicles owned by said dealer or wholesaler.

Any licensed Colorado wholesale auction may use in-transit plates in intrastate and inter-state transport of motor vehicles consigned to be sold by said auction.

In-transit plates may NOT be used upon any vehicle being offered for sale and operated by a prospective buyer for demonstration purposes unless the wholesaler or authorized auto auction representative is also present in the vehicle.

In-transit plates may NOT be used upon any vehicle which is not owned by a new or used motor vehicle dealer, wholesaler, or in the case of the wholesale auto auction, any vehicle which is not

consigned to said auction. In any case, use of the in-transit plate on a motor vehicle for commercial purpose other than to profit from the sale of said vehicle is strictly forbidden.

In-transit plates may NOT be used on any vehicle which has been sold and is in the possession of the purchaser;

Vehicles may be transported using in-transit plates from point of purchase to the point of storage, or from the point of storage to the point of sale;

In-transit plates may NOT be used for private or personal use by anyone, which includes the owner or employees of the applicant.

All vehicles being moved using an in-transit plate shall be in a safe roadworthy condition.

The cost of in-transit plates shall be the same as authorized in section 42-3-134 (10) for dealer plates.

Any lost, stolen, missing in-transit plates must be reported to the local law enforcement agency within twenty four (24) hours. A lost in-transit plate shall be replaced at full fee. A damaged in-transit plate may be turned in and replaced for the replacement fee.

All in-transit plates must be surrendered by the applicant within two (2) working days to the Department of Revenue, Enforcement Business Group, Auto Industry Division, whenever the applicant's business ceases operation; if the plates are not in the possession of the applicant, an affidavit must be furnished to the Department of Revenue, Enforcement Business Group, Auto Industry Division, so stating, in order that the missing plates can be denoted on the appropriate motor vehicle and law enforcement files.

All in-transit plates must be surrendered by the applicant within two (2) working days to the Department of Revenue, Enforcement Business Group, Auto Industry Division, whenever the dealer's license has been suspended or revoked by the Colorado Motor Vehicle Dealer Board.

If the ownership of the business possessing in-transit plates changes, the plates must be turned in by the applicant within two (2) working days to the Department of Revenue, Enforcement Business Group, Auto Industry Division, and new plates secured.

Any name change shall be reported to the Department of Revenue, Enforcement Business Group, Auto Industry Division, within ten (10) working days. After receipt and review, a license authorization will be issued which reflects the new name. The authorization shall be presented to the County Clerk, or in Denver County, the Manager of Revenue, who shall transfer the current plates into the new name. (1 C.C.R. 204-14)

Depot License Plates

Basis: This regulation is promulgated under the authority of 42-1-204, 42-3-116, 42-3-120, 42-3-121 (1) (d) and 42-3-301 CRS.

Purpose: The following rules and regulations are promulgated to establish criteria for the issuance of depot plates.

1.0 Definitions [Eff. 3/30/2008]

1.1 "Depot License Plates" or "Depot Tags" – means a numbered plate issued by the department authorizing the movement of dealership vehicles to and from the dealer's place of business or

storage for the purpose of completing work that involves repairing, painting, upholstering, polishing or other similar types of work.

1.2 “Department” – for purposes of this regulation means the department of revenue, state registrations section.

2.0 Requirements [Eff. 3/30/2008]

2.1 All applicants for depot plates shall complete and submit to the Department of Revenue, Registration Section, an application for the issuance of depot plates.

2.2 Only the Department of Revenue, Registration Section shall issue depot plates. All issued depot plates are subject to statutory and material fees that are assessed at the point of issuance.

2.3 All depot plates will have a thirty (30) day grace period for renewal. An annual fee described in 42-3-116 CRS, must be remitted with each application. The fee for replacement of a lost or mutilated depot plate will be the issuance fee identified in 42-3-116 CRS plus the material fee identified in 42-3-301 CRS.

2.4 Depot plates shall be limited to one plate per mechanic or service technician employed by the approved licensed dealership. The owner or authorized representative of the dealership shall, at the time of application or renewal, verify the number of mechanics or service technicians currently on the payroll. False information on the application or renewal request may result in denial of the application, cancellation and denial of any plates issued. Applicants suspected of providing false information shall be referred to the Auto Industry Division, Motor Vehicle Dealer Board.

2.5 A depot plate may be used by the dealership to transport vehicles to and from the dealer’s place of business or storage for the purpose of completing work that involves repairing, painting, upholstering, polishing or other similar types of work on the vehicle. A depot plate may also be used for road testing the vehicle after repair. Movement of a vehicle using a depot plate for any purpose other than those listed above shall constitute private use.

2.6 When the vehicle is being repaired or refurbished, the dealer shall provide written verification of authorization for repair. The verification shall be in the vehicle, available for inspection by an authorized law enforcement agency any time the vehicle is being used upon the streets or highways of the state.

2.7 Depot plates shall be mounted in such a position as to be visible from the back of the vehicle. Depot plates shall not be permanently attached or affixed to any vehicle. Depot plates must be maintained in a clearly legible condition at all times.

2.8 It is the responsibility of the dealer to assure that a vehicle being driven using a depot plate is in safe, roadworthy condition.

2.9 Pursuant to 42-3-116(4) (b) violation of the restrictions and methods of use of depot plates may result in sanctions including loss of plate privileges.

2.10 Dealers subject to loss of one or more depot plates may request a hearing, in writing, within thirty days of receiving notice of the pending action. If a hearing is not requested, within thirty days, the depot plates in question may be suspended. If so, the plate must be surrendered to the Department of Revenue, Registration Section within ten days of the date of notice of the suspension.

- 2.11 The hearing shall be held at the Department of Revenue, Enforcement Business Group, Hearing Section. The presiding hearing officer shall be an authorized representative designated by the Executive Director. The law enforcement officer or Department investigator who submits the documents and affidavit related to the action in question need not be present at the hearing unless his or her presence is required by the presiding officer, or requested by the dealer at the time the written request for hearing is submitted. If the law enforcement officer or investigator is not present at the hearing, the written documents and affidavit submitted by the officer or investigator may be used by the hearing officer.
- 2.12 Lost or stolen depot plates shall be reported within seventy-two (72) hours to the local law enforcement agency and the Department of Revenue, Division of Motor Vehicles, Registration Section using form number DR2283 Affidavit for Lost or Stolen License Plates/Permits. All depot plates shall be replaced for the original statutory fee identified in 42-3-116 CRS and the material fees identified 42-3-301 CRS.
- 2.13 Whenever the dealership for which repair work was being performed ceases to operate or whenever the appropriate dealer's license has been suspended, denied, revoked, or expired, all depot plates issued to such business must be surrendered within seventy-two (72) hours to the Department of Revenue, Division of Motor Vehicles, Registration Section at the cost of the dealership. The Department will not refund any portion of the original fee paid when the plates are surrendered.
- 2.14 Applications, renewals, and replacements may be conducted via postal mail. The dealer must provide a pre-paid envelope for plates to be mailed to them if delivery by mail is requested. Depot plates will not be mailed to non-Colorado addresses. The department reserves the right to validate a dealer's address to ensure that it is a legitimate business address for that dealer prior to accepting, approving or completing any depot license plate transaction.
- 2.15 Secure and verifiable identification will be required on all issuances and replacements of depot license plates. The dealership shall provide a letter of authorization to the department listing all authorized personnel that may conduct depot license plate transactions with the department.
- 2.16 All applicants shall have dealer license status verified with the Motor Vehicle Dealer Board through the Auto Industry Division. (1 C.C.R. 204-14)

Temporary Registration Permits

Basis: The statutory bases for this regulation are 42-1-204, and 42-3-203 (3) CRS. [Eff 03/02/2007](#)

Purpose: The following rules and regulations are promulgated to clarify the issuance and use of temporary registration permits by licensed Colorado motor vehicle dealers, wholesalers, and wholesale motor vehicle auctions.

Requirements

Permits may be purchased by licensed new and used motor vehicle dealers, wholesalers, and wholesale motor vehicle auctions from the County Clerks in the county where the business is located or, if in Denver County, the Manager of Revenue.

Dealers, wholesalers, and wholesale motor vehicle auctions may NOT purchase permits on an individual basis at the block rate. Dealers, wholesalers, and wholesale motor vehicle auctions

wishing to purchase less than twenty-five (25) permits must pay the individual permit rate applicable to the general public.

Permits may be issued by a licensed Colorado new or used car dealer, wholesaler, or wholesale motor vehicle auction only upon consummation of a sale. Dealers shall not loan, give, borrow, sell, exchange or issue permits for or with another dealer, individual, business, company or corporation.

The following time constraints shall be observed when issuing the permit:

1. A 45-day temporary permit may be issued upon the sale of a motor vehicle by a new or used motor vehicle dealer to a consumer.
2. A temporary permit may be issued for a maximum of seven (7) days upon the sale of a motor vehicle by a new or used motor vehicle dealer, wholesaler, or wholesale motor vehicle auction to another dealer. Said permit shall only be used to facilitate the delivery or movement of the vehicle from the point of sale or storage to the new owner's place of business or storage. Said permit shall be considered expired upon receipt of the vehicle at the new owner's designated location.

Permits are valid for either forty-five (45) or a maximum of seven (7) days only, depending upon the specific transaction as defined in item C. Said time periods shall commence with the date of issuance. **PERMITS ARE NOT RENEWABLE**, but when circumstances warrant, subsequent permits may be obtained by the consumer from the County Clerk or, in Denver county, from the Manager of Revenue. The expiration date of this permit must be in LARGE BOLD NUMERALS, completely using the space provided. In addition, DO NOT use a rubber stamp in this portion of the form, but rather use a wide permanent BLACK marking pen or BLACK crayon marking pencil. In any event, the expiration date must be in a larger area and in heavy print so that it is easily and readily visible. Impressions of figures must be complete and very black.

Permits shall not be issued to vehicles which are sold as "Tow Away" or to vehicles which are not roadworthy.

Proof that the dealer, wholesaler, or wholesale motor vehicle auction has sold the vehicle to the individual or business whose name appears on the permit must be placed and retained in the car at all times when operated using a temporary permit.

Permits are not to be used to demonstrate cars, transport, or deliver new cars from the factory to a dealer.

Permits may be affixed on the lower left hand corner of the rear windows, or if the vehicle is a convertible or truck on which rear windows are obscured, in the lower right corner of the windshield. (Permits are always placed on the inside.) Permits properly mounted and clearly visible, when enclosed in a transparent weatherproof covering, may be attached to the rear of the vehicle in the place and manner provided for attaching a rear license plate. (This is an optional method and the previous method of affixing permits applies in all cases other than outlined above.)

Temporary registration permits must have a 3-part permit registration (stub) completely filled in and distributed as follows:

1. The pink copy (owner's copy) shall be presented to the purchaser with the permit.

2. The white copy (state copy) shall be mailed on the date of issuance to the Department of Revenue, Motor Vehicle Business Group, Traffic Records Section, 1881 Pierce Street, Lakewood, CO 80214.
3. The yellow copy (dealer copy) must be retained by the dealer, completely filled in and properly filed for easy reference.

The dealer, wholesaler, or wholesale motor vehicle auction shall complete all the information required on the face of the permit to include the date of expiration. Strike over and corrections are not allowed on the face of the permit. Error corrections will require the issuance of a new permit. Permits invalidated due to an error shall have the word VOID printed across the face and be filed with the dealer stubs.

Applicant must report lost, stolen, or missing permits to the local law enforcement agency and the Department of Revenue, Enforcement Business Group, Auto Industry Division within two (2) working days.

All permits must be surrendered immediately to the Department of Revenue, Enforcement Business Group, Auto Industry Division, whenever the dealer, wholesalers, or wholesale motor vehicle auction license has been suspended or revoked by the Colorado Motor Vehicle Dealer Board. (1 C.C.R. 204-14)

Manufacturer License Plates

Basis: The statutory bases for this regulation are 42-1-204, 42-3-116 and 42-3-304 (6)(b) CRS. [Eff 03/02/2007](#)

Purpose: The following rules and regulations are promulgated to establish criteria for the issuance and use of manufacturer plates.

Requirements

In all cases the applicant shall complete and submit a Department approved application to the Department of Revenue, Enforcement Business Group, Auto Industry Division.

The number of plates authorized for purchase by each manufacturer shall be governed by the following criteria and the manufacturer's compliance with the criteria shall be certified to by a duly authorized representative of the manufacturer.

1. New manufacturers and factory branch allocations.
 - a. Each licensed manufacturer, which has at least one licensed representative, shall be authorized a minimum of three plates upon proof of Colorado titles applicable for the vehicles on which the plates are to be used.
 - b. Each licensed factory branch located within the boundaries of the state shall be authorized a minimum of three plates upon proof of Colorado titles applicable for the vehicles on which the plates are to be used. The branch must have at least one licensed representative.
 - c. Each small trailer manufacturer, with at least one representative, shall be authorized a minimum of three plates upon proof of Colorado titles applicable for the vehicles on which the plates are to be used.

- d. Additional manufacturer plate authorizations during the initial application year shall be issued on a per vehicle basis. Applicants wishing to obtain additional manufacturer plates shall present to the Department of Revenue, Enforcement Business Group, Auto Industry Division, proof of Colorado title applicable for the vehicle on which the plate is to be used. Each titled vehicle shall be entitled to one plate authorization.
- 2. Renewal of manufacturers and factory branch allocations.
 - a. Authorizations for manufacturer plates when renewing shall be based on the number of vehicles the manufacturer has titled in Colorado at the time of the application for renewal. Each titled vehicle shall be entitled to one plate authorization.
 - b. Applicants who need to obtain additional manufacturer plates during the year shall present to the Department of Revenue, Enforcement Business Group, Auto Industry Division, proof of Colorado title applicable to the vehicle on which the plate is to be used. Each titled vehicle shall be entitled to one plate authorization.
 - c. The Director of the Department of Revenue or his designee shall have the right to request supporting documents to verify the validity of the number of plates requested.

Vehicles bearing manufacturer plates must be owned by and titled in Colorado to the manufacturer or its factory branch. Operating a vehicle with manufacturer plates on a manufacturer's certificate of origin is NOT permitted. Colorado title must be obtained.

The driver of a vehicle bearing a manufacturer license plate shall have in his or her possession the receipt for application for a Colorado Title. Said validated receipt shall serve as the registration and insurance verification.

Additional vehicles owned and operated by a manufacturer or its branch are considered commercial and are subject to normal Colorado registration procedures and fees.

Verification of employment and authorizations for use shall be in written form on the manufacturer's letterhead and shall be in the driver's possession at all times when the vehicle is being operated on the highways in Colorado.

Vehicles bearing Colorado manufacturer plates must be principally operated and maintained in the State of Colorado. The receipt for title application must show a Colorado address. Manufacturer-owned vehicles operated and maintained principally in other states are subject to the licensing and registration requirements of those states.

No markings or advertising may appear on manufacturer-plated vehicles except those in the name of the manufacturer.

Manufacturer-plated vehicles are not to be used for demonstration purposes with the retail public. Demonstration rides are reserved for dealer plated vehicles of licensed motor vehicle dealers.

Manufacturer plates are NOT authorized on any vehicle which has been sold, leased, or rented by the manufacturer.

Lost or stolen manufacturer plates must be reported to a local law enforcement agency and the Department of Revenue, Enforcement Business Group, Auto Industry Division, within seventy-two (72) hours. The manufacturer may replace lost or stolen plates through the Department of Revenue, Enforcement Business Group, Auto Industry Division, or its designated agent after completing and filing an affidavit of lost or stolen plates. The plates shall be replaced at the statutory fee for plates in excess of five. Damaged plates must be returned to the Department of Revenue, Enforcement Business Group, Auto Industry Division or its designated agent and shall be replaced for a \$10 processing fee.

All Manufacturer plates must be surrendered to the Department of Revenue, Enforcement Business Group, Auto Industry Division, within seventy-two (72) hours if the manufacturer ceases to operate and sell motor vehicles in Colorado, or whenever the appropriate license has been suspended, denied, revoked, or expired. (1 C.C.R. 204-14)

Enforcement and Hearing Procedures

The statutory basis for this regulation is 42-1-204.

The following rules and regulations are promulgated to provide procedures to be followed when the Department conducts a hearing for a possible violation of either title or registration rules or regulations.

Requirements

1. Whenever the Department determines that a violation of any title or registration rule or regulation has occurred, the Department shall issue an Order to Cease and Desist and shall provide to the violator a Notice of the charged violation.
2. The Order may be a Summary Order to Cease and Desist, provided that such Order is followed by a Notice; or a Notice and Order to Cease and Desist on a future date certain may be issued.
3. The Order to Cease and Desist and/or the Notice of violation shall be mailed to the respondent by first class mail. All notices shall be directed to the most current address as indicated on the Motor Vehicle Division's records. Non delivery due to an unreported address change shall not constitute reason for dismissal of the action.
4. The Notice shall specify the charge(s) and advise that upon request the violator will be afforded an opportunity to confer with Department representatives concerning the charge(s) and proposed sanction(s). Such conference, when requested, shall be held prior to the effective date of the Order or, in the case of a Summary Order, as soon as possible following the date of the Order.
5. At the conference, the violator shall be permitted to review the evidence concerning the charge and may enter into discussion with Department representatives concerning possible sanction options. After conferring, the violator may stipulate to the charge and accept one of the offered options, or he may reject all options and request a formal hearing.
6. Such request for formal hearing must be made by the violator to the Motor Vehicle Hearing Section within ten (10) days following the conference. A violator who elects not to confer with the Department as provided above may apply directly for a formal hearing upon receipt of the Notice. Request shall be made to the Motor Vehicle Hearing Section within twenty (20) days of the date of the issuance of the Notice.

Failure of the violator to request a formal hearing within the time prescribed shall constitute a waiver of the right to a hearing and the Department's Order shall become final.

7. The formal hearing shall be scheduled within twenty (20) days of the request for hearing and shall be held before a Department of Revenue Hearing Officer. At the hearing, the violator shall have the opportunity to dispute the Department's charge(s) and to argue against the Department's sanction(s). The violator may be represented by legal counsel at the hearing.

8. After the matter has been heard, the hearing officer shall make findings of fact and shall issue an order on behalf of the Executive Director. The order of the hearing officer shall constitute an initial decision appealable to the Executive Director of the Department of Revenue under the Colorado Administrative Procedures Act.

9. Any Cease and Desist Order issued pursuant to this regulation shall result in the cancellation of such privileges upon a final Cease and Desist Order. The violator shall immediately cease to use the privilege granted and shall surrender all applicable state issued materials to include but not limit to license plates, tabs, temporary permits, applications, and registrations, or such materials may be seized by a designated enforcement officer of the Department of Revenue.

10. Reapplication by a violator who receives a Cease and Desist Order shall not be permitted until the terms and conditions of the Division are complied with. (1 C.C.R. 204-14)

Physical Inspection of Motor Vehicles

Basis: The statutory bases for this regulation are 42-1-204, 42-3-105 (1)(c)(I) and 42-6-107 (1)(b) CRS. Eff.03/02/2007

Purpose: The purpose of this regulation is to establish criteria for the performance of physical inspections on motor vehicles.

Requirements

Every vehicle owner required to title or register in this state who presents as proof of ownership a title or registration issued by another state or country and all vehicles presenting a Manufacturer's Certificate of Origin assigned to an out-of-state dealer shall be required to be inspected prior to titling or registering the vehicle in Colorado.

The inspection of the vehicle may be performed by any Colorado law enforcement officer, licensed new or used Colorado motor vehicle dealer, any licensed Colorado inspection and readjustment station, any licensed Colorado diesel inspection station, any County Clerk, or any other vehicle related entity designated by the Department.

All licensed new and used Colorado motor vehicle dealers, licensed Colorado inspection and readjustment, licensed Colorado diesel station or approved vehicle related entity must post in full view of the customer a sign disclosing the hours of operation and the fees for performing the inspection.

All inspections shall be complete and recorded on the form supplied or approved by the Department of Revenue, Motor Vehicle Business Group. (1 C.C.R. 204-14)

MISCELLANEOUS LAWS & REGULATIONS

6-1-708. Motor vehicle sales and leases - deceptive trade practice.

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(a) Commits any of the following acts pertaining to the sale or lease of a motor vehicle or a used motor vehicle:

(I) Guarantees to a purchaser or lessee of a motor vehicle or used motor vehicle who conditions such purchase or lease on the approval of a consumer credit transaction as defined in section 5-1-301 (12), C.R.S., that such purchaser or lessee has been approved for a consumer credit transaction if such approval is not final. For purposes of this subparagraph (I), "guarantee" means a written document or oral representation between the purchaser or lessee and the person selling or leasing the vehicle that leads such purchaser or lessee to a reasonable good faith belief that the financing of such vehicle is certain.

(II) Accepts a used motor vehicle as a trade-in on the purchase or lease of a motor vehicle or used motor vehicle and sells or leases such used motor vehicle before the purchaser or lessee has been approved for a consumer credit transaction as defined in section 5-1-301 (12), C.R.S., if such approval is a condition of the purchase or lease;

(III) Fails to return to the purchaser or lessee any collateral or down payment tendered by such purchaser or lessee conditioned upon a guarantee by a motor vehicle dealer or used motor vehicle dealer that a consumer credit transaction as defined in section 5-1-301 (12), C.R.S., has been approved for such purchaser or lessee, if such approval was a condition of the sale or lease and if such financing is not approved and the purchaser or lessee is required to return the vehicle;

(b) Fails to disclose in writing, prior to sale, to the purchaser that a motor vehicle is a salvage vehicle, as defined in section 42-6-102 (17), C.R.S., or that a vehicle was repurchased by or returned to the manufacturer from a previous owner for inability to conform the motor vehicle to the manufacturer's warranty in accordance with article 10 of title 42, C.R.S., or with any other state or federal motor vehicle warranty law or knowingly fails to disclose in writing, prior to sale, to the purchaser that a motor vehicle has sustained material damage at any one time from any one incident.

(2) For purposes of this section, if a motor vehicle or used motor vehicle dealer guarantees financing and if approval for financing is a condition of the sale or lease, such motor vehicle or used motor vehicle dealer shall not retain any portion of such purchaser's down payment or any trade-in vehicle as payment of rent on any vehicle released by such dealer to such purchaser pending approval of financing even if such dealer has obtained a waiver of such purchaser's right to return a vehicle or has contracted for a rental agreement with such purchaser.

42-6-205. Consumer protection.

All provisions of section 6-1-708, C.R.S., concerning deceptive trade practices in the sale of motor vehicles shall apply to the sale of used motor vehicles.

18-5-301. Fraud in effecting sales.

(1) A person commits a class 2 misdemeanor if, in the course of business, he knowingly:

(e) Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services.

18-5-303. Bait advertising.

(1) A person commits bait advertising if, in any manner, including advertising or any other means of communication, he offers property or services as part of a scheme or plan, with the intent, plan, or purpose not to sell or provide the advertised property or services at all, or not at the price at which he

offered them, or not in a quantity sufficient to meet the reasonable expected public demand, unless the quantity is specifically stated in the advertisement.

(3) Bait advertising is a class 2 misdemeanor.

SALVAGE LAW

42-6-102. Definitions.

- (17)** **(a)** "Salvage vehicle" means a vehicle that is damaged by collision, fire, flood, accident, trespass, or other occurrence, excluding hail damage, to the extent that the cost of repairing the vehicle to a roadworthy condition and for legal operation on the highways exceeds the vehicle's retail fair market value immediately prior to such damage, as determined by the person who owns the vehicle at the time of such occurrence or by the insurer or other person acting on behalf of such owner.
- (b)** In assessing whether a vehicle is a "salvage vehicle" under this section, the retail fair market value shall be determined by reference to sources generally accepted within the insurance industry including price guide books, dealer quotations, computerized valuation services, newspaper advertisements, and certified appraisals, taking into account the condition of the vehicle prior to the damage. When assessing the repairs, the assessor shall consider the actual retail cost of the needed parts and the reasonable and customary labor rates for needed labor.
- (c)** This subsection (17) shall not apply to a vehicle whose model year of manufacture is six years or older at the time of damage.

42-6-136. Surrender and cancellation of certificate - penalty for violation.

- (3)** **(a)** An owner of a salvage motor vehicle that has been made roadworthy who applies for a certificate of title as provided in section [42-6-116](#) shall include such information regarding the vehicle as the director may require by rule. The owner shall provide to the director evidence of ownership that satisfies the director that the applicant is entitled to filing of a certificate of title. The director or the authorized agent shall designate in a conspicuous place in the record for a vehicle that it is a salvage vehicle that has been made roadworthy. Such designation shall include the words "REBUILT FROM SALVAGE" and shall become a permanent part of the certificate of title for such vehicle and shall appear on all subsequent certificates of title for such vehicle.
- (b)** **(I)** An owner of a salvage motor vehicle that has been made roadworthy who applies for a certificate of title as provided in section [42-6-116](#) shall include a certified VIN inspection, DR2704, performed by a law enforcement officer certified as a VIN inspector.
- (II)** Prior to the inspection, the applicant shall stamp into the motor vehicle the words "REBUILT FROM SALVAGE" with each letter being not less than one-fourth inch in size. Such words shall be a salvage brand and be stamped in the following locations:
- (A)** In a motorcycle, on the frame in a visible location;
 - (B)** In a class A manufactured motor home, on the main entrance door jamb;
 - (C)** In a trailer, adjacent to the public vehicle identification number;
 - (D)** In all other motor vehicles, on the body post to which the driver's door latches, also known as the driver's door B pillar.
- (III)** The law enforcement officer shall not complete the inspection required by this paragraph (b) unless the salvage brand complies with this paragraph (b).
- (c)(I)** Except as provided in subparagraph (II) of this paragraph (c), a person commits a class 1 misdemeanor and, upon conviction, shall be punished as provided in section [18-1.3-501](#), C.R.S., if such person:
- (A)** Intentionally removes or alters a salvage brand; or

- (B) Possesses a motor vehicle without re-titling the vehicle with a salvage brand for forty-five days after learning that the motor vehicle's salvage brand may have been removed or altered.
- (II) A person may remove or alter a salvage brand if necessary to legitimately repair a motor vehicle. Such person shall provide evidence of such repair to the investigating law enforcement authority, including pre-repair and post-repair photographs of the affected motor vehicle part and the salvage brand and a signed affidavit describing the repairs. Upon repair, or subsequent repair, the vehicle shall be re-stamped.

42-6-206. Disclosure requirements upon transfer of ownership of a salvage vehicle.

- (1) Prior to sale of a vehicle rebuilt from salvage to a prospective purchaser for the purpose of selling or transferring ownership of such vehicle, the owner shall prepare a disclosure affidavit stating that the vehicle was rebuilt from salvage. The disclosure affidavit shall also contain a statement of the owner stating the nature of the damage which resulted in the determination that the vehicle is a salvage vehicle. The words "rebuilt from salvage" shall appear in bold print at the top of each such affidavit.
- (2) Any person who sells a vehicle rebuilt from salvage for the purpose of transferring ownership of such vehicle shall:
 - (a) Provide a copy of a disclosure affidavit prepared in accordance with the provisions of subsection (1) of this section to each prospective purchaser; and
 - (b) Obtain a signed statement from each such purchaser clearly stating that the purchaser has received a copy of the disclosure affidavit and has read and understands the provisions contained therein.
- (3)
 - (a) Any person who purchases a vehicle rebuilt from salvage who was not provided with a copy of a disclosure affidavit prepared in accordance with the provisions of subsection (1) of this section and who, subsequent to sale, discovers that the vehicle purchased was rebuilt from salvage shall be entitled to a full and immediate refund of the purchase price from the prior owner.
 - (b) In the event a person is entitled to a refund under this subsection (3), the prior owner shall be required to make an immediate refund of the full purchase price to the purchaser. A signed statement from the purchaser prepared in accordance with the provisions of paragraph (b) of subsection (2) of this section shall relieve the prior owner of the obligation to make such refund.
- (4) Any owner, seller, or transferor of a vehicle rebuilt from salvage who fails to comply with the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine for a first offense not to exceed one thousand five hundred dollars and a fine of five thousand dollars for each subsequent offense.
- (5) The executive director of the department of revenue shall prescribe rules and regulations for the purpose of implementing the provisions of this section.
- (6) As used in this section, unless the context otherwise requires:
 - (a) "Sale" means any sale or transfer of a vehicle rebuilt from salvage.
 - (b) "Salvage vehicle" shall have the same meaning as set forth in section [42-6-102](#) (13).

SALVAGE DISCLOSURE ON TITLE APPLICATIONS FOR SALVAGE AND PREVIOUSLY SALVAGED MOTOR VEHICLES

1.0 Definitions

1.1 Salvage vehicle means any motor vehicle as defined in section 42-6-102(10) and (23) C.R.S. which is damaged as defined by section 42-6-102 (17)(a), CRS. which shall include any reference to "salvage vehicle" or "salvage motor vehicle" . *Eff 03/04 /2007*

1.2 Certified VIN Inspector means a peace officer that is certified by the Peace Officers Standards and Training board (P.O.S.T.) to complete vehicle identification number inspections pursuant to section 24-31-303 (1) (e), C.R.S. *Eff 10/01/2006*

1.3 Repair Shop means a person or firm that offers major motor vehicle repair services of more than one thousand dollars in value per motor vehicle repair to the public on a commercial basis and complies with all federal, state, county and municipal laws that require the person or firm to possess business or tax licenses. *Eff 10/01/2006*

2.0 Requirements

2.1 The application for a Salvage Certificate of Title shall include disclosure of the type of damage (excluding hail damage) resulting in salvage. In the case of an application for salvage title due to vehicle abandonment at a repair shop, the application shall denote that the reason for salvage is "vehicle abandoned at a repair shop" . *Eff 10/01/2006*

2.2 A copy of the appropriate form, as designated by the Division of Motor Vehicles , shall accompany any title application for a motor vehicle known to be previously declared a salvage motor vehicle. " REBUILT FROM SALVAGE" indicates the motor vehicle is now roadworthy as defined in section 42-6-102 (15), C.R.S. *Eff 10/01/2006*

2.3 The application for a certificate of title for a salvage motor vehicle which has been made roadworthy from salvage as provided in section 42-6-116, C.R.S., shall be accompanied by a certified vehicle identification number inspection (form DR 2704) and an affidavit from the owner, which includes but is not limited to: *Eff 10/01/2006*

- A. Description of repairs to the salvage motor vehicle including what work was completed to repair the motor vehicle; *Eff 10/01/2006*
- B. What parts were used to repair the salvage motor vehicle; *Eff 10/01/2006*
- C. Where the parts were obtained, and who made the repairs; *Eff 10/01/2006*
- D. Certification by the owner that the salvage motor vehicle described in the affidavit is now roadworthy as provided in section 42-6-102(15) C.R.S. and, *Eff 03/04/2007*
- E. The specific information required in 3 A., B., C. and D. is not required in the event that the salvage title was issued due to vehicle abandonment at a repair shop. In this case, the affidavit required in 3 A. must state that the reason for salvage is "vehicle abandoned at a repair shop and no repairs have been made" . *Eff 10/01/2006*
- F. Prior to the inspection of the vehicle the applicant shall stamp a salvage brand into the motor vehicle using the words "REBUILT FROM SALVAGE " .Each letter must be at least one-fourth inch in size and stamped in the following locations for each vehicle type: *Eff 10/01/2006*

- Motorcycle – on the frame in a visible location *Eff 10/01/2006*

- Manufactured Home – main entrance door jamb *Eff 10/01/2006*
- Trailer – adjacent to public VIN *Eff 10/01/2006*
- All other Motor Vehicles – on the Driver's B Pillar post *Eff 10/01/2006*

G. Verification by a Certified VIN Inspector that said inspector personally examined the salvage motor vehicle including the salvage brand and reviewed the affidavit from the owner and any receipts and/or invoices for parts used in the repair of the salvage motor vehicle. The Certified VIN Inspector shall not complete the inspection unless the salvage brand required by section 42-6-136 (3) (b) (II), C.R.S., is stamped into the vehicle. *Eff 10/01/2006*

- 2.4 The owner of a salvage motor vehicle may make application for a salvage certificate of title before the sale or transfer of such motor vehicle. All subsequent purchasers or transferees of a salvage vehicle, other than transactions that are not subject to taxation pursuant to section 39-26-104, C.R.S. must obtain a salvage certificate of title in the owner's name within 45 days from the date of purchase or transfer. If an insurance company acquires a motor vehicle that has been defined as "salvage" in accordance with section 42-6-102 (17), C.R.S., the insurance company must apply for a salvage certificate of title in accordance with section 42-6-136 (20C.R.S. before transferring ownership of the vehicle. If the owner retains a motor vehicle upon settlement of a claim with an insurance company, and the vehicle has been defined as "salvage" in accordance with section 42-6-102 (17), C.R.S., the owner must apply for a salvage certificate of title in their name. If a Repair Shop acquires a vehicle through the Repair Shop Abandonment process and the vehicle is less than six model years and appraised for more than \$200.00, the purchaser of the vehicle must apply for a salvage certificate of title in accordance with section 42-4-2104.5 (4)(e)(III), C.R.S. *Eff 03/04/2007*
- 2.5 The department shall clearly and conspicuously identify every salvage certificate of title with the word "SALVAGE" or rebuilt salvage certificate of title with the words "REBUILT FROM SALVAGE" by any means that is permanent and unmistakable as approved by the director. Such identification shall appear on the first and on all subsequent certificates of title for any such vehicle. *Eff 10/01/2006*

REPOSSESSIONS

42-6-146. Repossession of motor vehicle - owner must notify law enforcement agency - penalty.

(1) If a mortgagee, lien holder, or the mortgagee's or lien holder's assignee or the agent of either repossesses a motor vehicle because of default in the terms of a secured debt, the reposessor shall notify, either verbally or in writing, a law enforcement agency, as provided in this section, of the fact of such repossession, the name of the owner, the name of the reposessor, and the name of the mortgagee, lien holder, or assignee. Such notification shall be made at least one hour before or no later than one hour after the repossession occurs. If such repossession takes place in an incorporated city or town, the reposessor shall notify the police department, town marshal, or other local law enforcement agency of such city or town. If such repossession takes place in the unincorporated area of a county, the reposessor shall notify the county sheriff.

(2) A reposessor who violates subsection (1) of this section is guilty of a class 2 misdemeanor and, upon conviction, shall be punished as provided in section 18-1.3-501, C.R.S.

(3) If a motor vehicle being repossessed is subject to the "Uniform Commercial Code - Secured Transactions", article 9 of title 4, C.R.S., the repossession shall be governed by the provisions of section 4-9-629, C.R.S.

(4) As used in this section, the term "reposessor" means the party who physically takes possession of the motor vehicle and drives, tows, or transports the motor vehicle for delivery to the mortgagee, lien holder, or assignee or the agent of such mortgagee, lien holder, or assignee.

4-9-629. Secured party's liability when taking possession after default - legislative declaration - fund.

(a) The general assembly recognizes that, in the past, certain debtors may have been disadvantaged by the actions of reposseors and that such debtors were then unable to obtain just redress for their losses in the courts, especially in cases in which the creditor who initiated the action by employing or contracting with the reposessor was shielded from liability because the reposessor was categorized by the courts as an independent contractor. The general assembly wishes to ensure that the reposessor is bonded or that the secured party or assignee is held responsible at law as a principal under the general principles of agency law for the actions of a reposessor who is acting at the behest of the creditor in the event that no bond has been posted.

(b) A secured party or such party's assignee who wishes to contract with a person to recover or take possession of collateral upon default, including a motor vehicle repossessed pursuant to section [42-6-146](#), C.R.S., shall contract to recover or take possession of collateral only with a person who is bonded for property damage to or conversion of such collateral in the amount of at least fifty thousand dollars. Such bond shall be filed with and drawn in favor of the attorney general of the state of Colorado for use of the people of the state of Colorado, and shall be revocable only with the written consent of the attorney general pursuant to rules promulgated by the office of the attorney general. The office of the attorney general may charge a fee to be paid by the person filing such bond in order to cover the direct and indirect costs incurred by such office in fulfilling its duties under the provisions of this section.

(c) A secured party or secured party's assignee who employs or contracts with a person who has not complied with the requirements specified in subsection (b) of this section shall be liable as principal for the actions of any person the secured party or assignee employs or contracts with to recover or take possession of the collateral after default as provided in section [4-9-609](#) in the same manner as if such person were the agent of the secured party or assignee, whether or not such person has been or may be deemed to be acting as an independent contractor in law.

(g) Notwithstanding any provision by contract or common law, in exercising its rights after default, a secured party or lessor taking possession of a motor vehicle may not disable or render unusable any computer program or other similar device embedded in the motor vehicle if immediate injury to any person or property is a reasonably foreseeable consequence of such action. Any secured party or lessor who disables or renders unusable such a computer program or other similar device in such circumstances shall be liable in accordance with applicable rules of law to any person who sustains an injury to person or property as a reasonably foreseeable result of the secured party's or lessor's action.

5-5-110. Notice of right to cure.

(1) With respect to a consumer credit transaction, after a consumer has been in default for ten days for failure to make a required payment and has not voluntarily surrendered possession of goods or the mobile home that are collateral, a creditor may give the consumer the notice described in this section. A creditor gives notice to the consumer pursuant to this section when the creditor delivers the notice to the consumer or mails the notice to the consumer at the consumer's residence, as defined in section [5-1-201](#) (6).

(2) Except as provided in subsection (3) of this section, the notice shall be in writing and conspicuously state: The name, address, and telephone number of the creditor to which payment is to be made, a brief identification of the credit transaction, the right to cure the default, and the amount of payment and date

by which payment must be made to cure the default. A notice in substantially the following form complies with this subsection (2):

"(Name, address, and telephone number of creditor)

(Account number, if any)

(Brief identification of credit transaction)

(Date) is the LAST DATE FOR PAYMENT.

(Amount) is the AMOUNT NOW DUE.

You are late in making your payment(s). If you pay the AMOUNT NOW DUE (above) by the LAST DAY FOR PAYMENT (above), you may continue with the contract as though you were not late. If you do not pay by this date, we may exercise our rights under the law.

If you are late again in making your payments, we may exercise our rights without sending you another notice like this one. If you have questions, write or telephone the creditor promptly.

(4) A notice of right to cure delivered or mailed to a cosigner pursuant to this section shall be modified to state that the consumer is late in making his or her payment, include the consumer's name, and that if the amount now due is not paid by the last date for payment, the creditor may exercise its rights against the consumer, cosigner, or both.

5-5-111. Cure of default.

(1) With respect to a consumer credit transaction, except as provided in subsection (2) of this section, after a default consisting only of the consumer's failure to make a required payment, a creditor, because of that default, may neither accelerate maturity of the unpaid balance of the obligation nor take possession of or otherwise enforce a security interest in the goods or the mobile home that are collateral until twenty days after giving the consumer a notice of right to cure described in section [5-5-110](#). Until the expiration of the minimum applicable period after the notice is given, all defaults consisting of a failure to make the required payment may be cured by tendering to the creditor the amount of all unpaid sums due at the time of the tender, without acceleration, plus any unpaid delinquency or deferral charges. Cure restores the consumer to his or her rights under the agreement as though the defaults had not occurred.

(2) With respect to defaults on the same obligation, other than defaults on an obligation secured by a mobile home, after a creditor has once given the consumer a notice of right to cure described in section [5-5-110](#), this section gives no right to cure and imposes no limitation on the creditor's right to proceed against the consumer or goods that are collateral with respect to any subsequent default that occurs within twelve months of such notice. With respect to defaults on the same obligation that is secured by a mobile home, this section gives no right to cure and imposes no limitation on the creditor's right to proceed against the consumer or goods that are collateral with respect to any third default that occurs within twelve months of such notice. For the purpose of this section, in connection with revolving credit accounts, the obligation is the consumer's account, and there is no right to cure and no limitation on the creditor's rights with respect to any default that occurs within twelve months after an earlier default as to which a creditor has given the consumer notice of right to cure.

(3) Unless a creditor has provided the cosignor on a consumer credit transaction with a notice of right to cure that complies with section [5-5-110](#) and this section, in addition to the notice of right to cure provided to the consumer, the creditor may neither accelerate maturity of the unpaid balance of the obligation as to the cosignor nor report that amount on the cosignor's consumer report with a consumer reporting agency as defined in section [12-14.3-102](#), C.R.S., and 15 U.S.C. sec. 1681a.

(4) This section and the provisions on waiver, agreements to forego rights, and settlement of claims do not prohibit a consumer from voluntarily surrendering possession of goods that are collateral and the creditor from thereafter enforcing its security interest in the goods at any time after default.

(5) This section shall not apply to consumer credit transactions that are payable in four or fewer installments.

MANUFACTURER WARRANTY / "LEMON LAW"

42-10-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle normally used for personal, family, or household purposes, any person to whom such motor vehicle is transferred for the same purposes during the duration of a manufacturer's express warranty for such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty.

(2) "Motor vehicle" means a self-propelled private passenger vehicle, including pickup trucks and vans, designed primarily for travel on the public highways and used to carry not more than ten persons, which is sold to a consumer in this state; except that the term does not include motor homes as defined in section [42-1-102](#) (57) or vehicles designed to travel on three or fewer wheels in contact with the ground.

(3) "Warranty" means the written warranty, so labeled, of the manufacturer of a new motor vehicle, including any terms or conditions precedent to the enforcement of obligations under that warranty.

42-10-102. Repairs to conform vehicle to warranty.

If a motor vehicle does not conform to a warranty and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of such warranty or during a period of one year following the date of the original delivery of the motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent, or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such warranty, notwithstanding the fact that such repairs are made after the expiration of such term or such one-year period.

42-10-103. Failure to conform vehicle to warranty - replacement or return of vehicle.

(1) If the manufacturer, its agent, or its authorized dealer is unable to conform the motor vehicle to the warranty by repairing or correcting the defect or condition which substantially impairs the use and market value of such motor vehicle after a reasonable number of attempts, the manufacturer shall, at its option, replace the motor vehicle with a comparable motor vehicle or accept return of the motor vehicle from the consumer and refund to the consumer the full purchase price, including the sales tax, license fees, and registration fees and any similar governmental charges, less a reasonable allowance for the consumer's use of the motor vehicle. Refunds shall be made to the consumer and lien holder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer and any previous consumer prior to the consumer's first written report of the nonconformity to the manufacturer, agent, or dealer and during any subsequent period when the vehicle is not out of service by reason of repair.

(2) (a) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the warranty if:

(I) The same nonconformity has been subject to repair four or more times by the manufacturer, its agent, or its authorized dealer within the warranty term or during a period of one year following the date of the original delivery of the motor vehicle to the consumer, whichever is the earlier date, but such nonconformity continues to exist; or

(II) The motor vehicle is out of service by reason of repair for a cumulative total of thirty or more business days of the repairer during the term specified in subparagraph (I) of this paragraph (a) or during the period specified in said subparagraph (I), whichever is the earlier date.

(b) For the purposes of this subsection (2), the term of a warranty, the one-year period, and the thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, or fire, flood, or other natural disaster.

(c) In no event shall a presumption under paragraph (a) of this subsection (2) apply against a manufacturer unless the manufacturer has received prior written notification by certified mail from or on behalf of the consumer and has been provided an opportunity to cure the defect alleged. Such defect shall count as one nonconformity subject to repair under subparagraph (l) of paragraph (a) of this subsection (2).

(d) Every authorized motor vehicle dealer shall include a form, containing the manufacturer's name and business address, with each motor vehicle owner's manual on which the consumer may give written notification of any defect, as such notification is required by paragraph (c) of this subsection (2), and the form shall clearly and conspicuously disclose that written notification by certified mail of the nonconformity is required, in order for the consumer to obtain remedies under this article.

(3) The court shall award reasonable attorney fees to the prevailing side in any action brought to enforce the provisions of this article.

42-10-104. Affirmative defenses.

(1) It shall be an affirmative defense to any claim under this article that

(a) An alleged nonconformity does not substantially impair the use and market value of a motor vehicle; or

(b) A nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by a consumer.

42-10-105. Limitations on other rights and remedies.

Nothing in this article shall in any way limit the rights or remedies which are otherwise available to a consumer under any other state law or any federal law. Nothing in this article shall affect the other rights and duties between the consumer and a seller, lessor, or lien holder of a motor vehicle or the rights between any of them. Nothing in this article shall be construed as imposing a liability on any authorized dealer with respect to a manufacturer or creating a cause of action by a manufacturer against its authorized dealer; except that failure by an authorized dealer to properly prepare a motor vehicle for sale, to properly install options on a motor vehicle, or to properly make repairs on a motor vehicle, when such preparation, installation, or repairs would have prevented or cured a nonconformity, shall be actionable by the manufacturer.

42-10-106. Applicability of federal procedures.

If a manufacturer has established or participates in an informal dispute settlement procedure which substantially complies with the provisions of part 703 of title 16 of the code of federal regulations, as from time to time amended, the provisions of section [42-10-103](#) (1) concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure.

42-10-107. Statute of limitations.

Any action brought to enforce the provisions of this article shall be commenced within six months following the expiration date of any warranty term or within one year following the date of the original delivery of a motor vehicle to a consumer, whichever is the earlier date; except that the statute of limitations shall be tolled during the period the consumer has submitted to arbitration under section [42-10-106](#).

Colorado

Powersports Industry

Laws & Regulations



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COLORADO STATUTES & REGULATIONS FOR THE POWERSPORTS INDUSTRY

PART 5 POWERSPORTS VEHICLES

12-6-501. Legislative declaration. (1) The general assembly hereby declares that:

(a) The sale and distribution of powersports vehicles affects the public interest, and a significant factor of inducement in making a sale of a powersports vehicle is the trust and confidence of the purchaser in the dealer from whom the purchase is made and the expectancy that the dealer will remain in business to provide service for the vehicle;

(b) The proper sale and service of a powersports vehicle are important to consumer safety, and the manufacturers and distributors of powersports vehicles have an obligation to the public not to terminate or refuse to continue their franchise agreements with retail powersports vehicle dealers unless the powersports vehicle manufacturer or distributor has first established good cause for termination of any such agreement, to the end that there shall be no diminution of locally available service;

(c) The licensing and supervision of powersports vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers, and, therefore, the sale of powersports vehicles by unlicensed dealers or salespersons, or by licensed dealers or salespersons who have demonstrated unfitness, should be prevented; and

(d) Consumer education concerning the rules and regulations of the powersports vehicle industry, the considerations when purchasing a powersports vehicle, and the role, functions, and actions of the motor vehicle dealer board are necessary for the protection of the public and for maintaining the trust and confidence of the public in the motor vehicle dealer board.

12-6-502. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "ANSI/SVIA-1-2001" means the American national standards institute's, or its successor organization's, provisions for four-wheel all-terrain vehicles, equipment configuration, and performance requirements, developed by the specialty vehicle institute of America, or its successor organization.

(2) "Board" means the motor vehicle dealer board.

(3) "Consumer" means a purchaser, renter, or lessee of a powersports vehicle that is primarily used for business, personal, family, or household purposes. "Consumer" does not include a purchaser of powersports vehicles primarily for resale.

(4) "Custom trailer" means a vehicle that is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and that is uniquely designed and manufactured for a specific purpose or customer. "Custom trailer" does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

(5) "Executive director" means the executive director of the department of revenue.

(6) "Line-make" means a group or series of powersports vehicles that have the same brand identification or brand name, based upon the powersports vehicle manufacturer's trademark, trade name, or logo.

(7) "New powersports vehicle" mean a powersports vehicle that has been transferred on a manufacturer's statement of origin and for which an ownership registration card has been submitted by the original owner to the powersports vehicle manufacturer.

(8) "Off-highway vehicle" means any self-propelled vehicle that is designed to travel on wheels or tracks in contact with the ground, designed primarily for use off of the public highways, and generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:

(a) Military vehicles;

(b) Golf carts;

(c) Vehicles designed and used to carry persons with disabilities; and

(d) Vehicles designed and used specifically for agricultural, logging, or mining purposes.

(9) "Personal watercraft" means a motorboat that is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel, and that is designed primarily for use off of the public highways, and that uses either of the following as the primary source of motive power:

(a) An inboard motor powering a water jet pump; or

b) An outboard motor-driven propeller.

(10) "Powersports vehicle" means any of the following:

(a) An off-highway vehicle;

(b) A personal watercraft; or

(c) A snowmobile.

(11) "Powersports vehicle dealer" means a person, who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used powersports vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used powersports vehicles, whether or not the powersports vehicles are owned by such person. The sale or lease of ten or more new or new and used powersports vehicles or the offering for sale or lease of more than ten new or new and used powersports vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling or leasing new or new and used powersports vehicles. "Powersports vehicle dealer" includes an owner of real property who allows more than ten new or new and used powersports vehicles to be offered for sale or lease on such property during one calendar year unless said property is leased to a licensed powersports vehicle dealer. "Powersports vehicle dealer" does not include:

REGULATION 12-6-502 (11) Profit or gain of money or other thing of value means:

Profit may be defined as the difference between the price paid and the market value of the vehicle after deduction of the expenses incurred in the sale thereof.

Gain of money or other thing of value includes but is not limited to any increase or addition to what one has of that which is of profit, advantage or benefit.

A profit or gain does not necessarily mean a direct return; and therefore, a saving of expense which would otherwise be incurred is also a profit or gain to the person benefited.

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of persons enumerated in the definition of "powersports vehicle dealer" when engaged in the specific performance of their duties as such employees;

(d) A wholesaler or anyone selling powersports vehicles solely to wholesalers; or

(e) A wholesale motor vehicle auctioneer.

(12) "Powersports vehicle distributor" means a person, resident, or nonresident, who, in whole or in part, sells or distributes new powersports vehicles to powersports vehicle dealers or who maintains powersports vehicle distributor representatives.

(13) "Powersports vehicle manufacturer" means any person, firm, association, corporation, trust, resident, or nonresident who manufactures or assembles new powersports vehicles.

(14) "Powersports vehicle manufacturer representative" means a representative employed by a person who manufactures or assembles powersports vehicles for the purpose of making or promoting the sale of the person's powersports vehicles or for supervising or contacting its dealers or prospective dealers.

(15) "Powersports vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a powersports vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of powersports vehicles.

(16) "Principal place of business" means a site or location for which the powersports vehicle dealer is licensed sufficiently designated to admit of definite description, with space thereon or contiguous thereto adequate to permit the display of one or more new or used powersports vehicles, and including a permanent enclosed building or structure to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of such dealer, at which site or location the principal portion of such dealer's business shall be conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of such location at least thirty days in advance. Motor vehicle and used motor vehicle dealers shall be authorized to offer both motor vehicles and powersports vehicles from the same principal place of business. In the case of motor vehicle dealers, such principal place of business shall be at the address set forth in the dealer's sales agreement.

(17) "Snowmobile" means a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats and designed primarily for use off of the public highways. "Snowmobile" shall not include machinery used strictly for the grooming of snowmobile trails or ski slopes.

(18) "Used powersports vehicle" means a powersports vehicles that is not a new powersports vehicle.

(19) "Used powersports vehicle dealer" means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used powersports vehicles, or attempts to negotiate a sale, or lease of a new and used powersports vehicles or who is engaged wholly or in part in the business of selling used powersports vehicles, whether or not such used powersports vehicles are owned by such person. The sale of ten or more used powersports vehicles or the offering for sale of more than ten used powersports vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling used powersports vehicles. "Used powersports vehicle dealer" includes an owner of real property who allows more than ten used powersports vehicles to be offered for sale on such property during one calendar year unless the property is leased to a licensed used powersports vehicle dealer. "Used powersports vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of used powersports vehicle dealers when engaged in the specific performance of their duties;

(d) Anyone selling powersports vehicles solely to wholesalers;

(e) Mortgagees or secured parties as to powersports vehicles constituting collateral on a mortgage or security agreement, if such mortgagees or secured parties shall not realize for their own account from such sales any moneys in excess of the outstanding balance secured by such mortgage or security agreement, plus costs of collection; or

(f) A motor vehicle auctioneer.

(20) "Wholesaler" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in a new or new and used powersports vehicle solely to powersports vehicle dealers or used powersports vehicle dealers.(HB09-1026)(Effective 10-1-2009)

12-6-503. Motor vehicle dealer board. Powersports vehicle dealers, used powersports vehicle dealers, powersports manufacturers, distributors, representatives, and powersports vehicle salespersons shall be subject to the jurisdiction of the motor vehicle dealer board.

12-6-504. Board - oath - meetings - powers and duties - rules. (1) In addition to the duties and powers of the board under section 12-6-104, the board may:

(a) Promulgate, amend, and repeal rules reasonably necessary to implement this part 5, including, without limitation, the administration, enforcement, issuance, and denial of licenses to wholesalers, powersports vehicle dealers, powersports vehicle salespersons, and used powersports vehicle dealers; (HB09-1026)(Effective 10-1-2009)

(b) Delegate to the board's executive secretary, employed pursuant to section 12-6-105 (1) (b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority of the board;

REGULATION 12-6-504 (1) (b). Powers and Duties of the Executive Secretary.

In addition to any other duties delegated to the Executive Secretary of the Motor Vehicle Dealer Board contained in the board's regulations, the Executive Secretary is delegated the authority to perform the following ministerial acts:

(I) The board permits its Executive Secretary to set and maintain the board's docket, grant motions for continuances and motions for enlargements of time, issue subpoenas, and issue final agency orders pursuant to the board's action.

(II) Board orders and correspondence may be written, signed and issued by the Executive Secretary on behalf of the board consistent with the board's action or direction. Notices of charges may be signed and issued by the Executive Secretary after the board has referred the matter for a hearing pursuant to section 12-6-504(1)(f)(V), C.R.S.

(III) The Executive Secretary is delegated the authority to conduct informal fact-finding conferences and make recommendations to the board for the granting or denying of an application for a powersports vehicle salesperson license.

(c) Issue through the department of revenue a temporary license to an applicant seeking a license issued by the board, which temporary license shall permit the applicant to operate for not more than one hundred twenty days, during which time the board may complete its investigation and determination of all facts relative to the qualifications of the applicant for such license;

REGULATION 12-6-504 (1) (c).

1. A temporary license shall not issue, and a salesperson shall not be allowed to offer, negotiate or sell vehicles unless the board has received and date stamped at the main office of the Auto Industry Division a signed application, completed in every respect, with all required details and attachments, including bond, fees, and the licensing examination affidavit required by Regulation 12-6-104(3)(J). Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed. (Effective 8/30/2010)

2. All original applicants shall have a criminal history background investigation conducted prior to the issuance of a permanent license.

3. No temporary license shall issue to any person who has been the subject of disciplinary proceedings before the board within the past 5 years, unless such disciplinary proceedings resulted in dismissal of all charges. Such person's application shall require prior board review and approval of a license before said person shall be permitted to engage in activities requiring a salesperson license.

4. Any salesperson applicant who has been notified by the Auto Industry Division that additional documentation is required by the board before a license can be approved, and who fails to comply by the date specified with the request for information, shall be deemed not to have submitted a complete application and may not engage in activities requiring a powersports vehicle salesperson license until the board has reviewed and approved the application.

5. The Executive Secretary may issue a notice of denial to any applicant who fails to provide documentation as requested, if the application discloses, on its face, grounds for denial under section 12-6-520, C.R.S.

6. Any person who allows such applicant to engage in activities requiring a powersports vehicle salesperson license may be subject to disciplinary action for violation of section 12-6-509 C.R.S.

(d) (I) Issue through the department of revenue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under this part 5, to refuse to issue to any applicant any license the board is authorized to issue by this part 5;

(II) Permit the executive director to issue licenses pursuant to rules adopted by the board under paragraph (a) of this subsection (1);

(e) (I) After due notice and a hearing:

(A) Review the findings of an administrative law judge or hearing officer from a hearing conducted pursuant to this part 5; or

(B) Revoke and suspend or order the executive director to issue or to reinstate, on such terms and conditions and for such period of time as the board deems fair and just, any license issued pursuant to this part 5;

(II) Issue a letter of admonition for a minor violation of this part 5 that does not become a part of the licensee's record with the board;

(III) Issue a letter of reprimand and a notice of the right to request formal disciplinary proceedings, in writing within twenty days, to a licensee for a violation of this part 5, which letter is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of any subsequent violation by the licensee; except that the letter shall be vacated and a formal disciplinary proceeding shall be instituted upon a written request within twenty days after the letter is issued;

(f) (I) Investigate, with the assistance of the executive director, on its own motion or upon a written and signed complaint from any person, a suspected or alleged violation by a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle salesperson of this part 5 or a rule promulgated by the board; (HB09-1026)(Effective 10-1-2009)

(II) Issue subpoenas or delegate the authority to issue subpoenas to the executive director;

(III) Require the executive director to investigate complaints transmitted by the board pursuant to section 12-6-505 (1) (e) and (1) (f);

(IV) Seek to resolve disputes before beginning an investigation or hearing through its own action or by direction of the executive director;

(V) If the board determines that there is probable cause to believe a violation of this article has occurred after an investigation by the executive director, order an administrative hearing be held pursuant to section 24-4-105, C.R.S., or designate one of the board's members as a hearing officer to conduct a hearing pursuant to section 24-4-105, C.R.S.;

(g) Summarily issue to any person who is licensed by the board pursuant to this part 5 cease and desist orders on such terms and conditions and for such time as the board deems fair and just, if such orders are followed by notice and a hearing pursuant to this section;

(h) (I) Prescribe the forms to be used for applications for persons licensed under this part 5;

(II) Require of an applicant, as a requisite to the issuance of a license, information concerning the applicant's fitness to be licensed under this part 5 as the board considers necessary;

(i) Adopt a seal with the words "motor vehicle dealer board" and such other devices as the board may desire engraved thereon by which it shall authenticate the acts of its office;

(j) Require that a powersports vehicle dealer's or used powersports vehicle dealer's principal place of business and such other sites or locations operated by the dealer have signs or devices giving notice of the dealer's name, the location and address of the dealer's principal place of business, and the type and number of license held by the dealer, as the board considers necessary to notify any person doing business with the dealer to identify such dealer, and for this purpose to promulgate rules determining the size, shape, lettering, and location of such signs or devices;

REGULATION 12-6-504 (1) (j). Signage.

The principal place of business and other locations of the dealer shall display a permanent sign thereon with letters at least six (6) inches in height, clearly visible to the major avenue of traffic, which sign shall clearly designate the name of the business for which the license application is made or under which such business is conducted.

(k) Cause to be conducted written examinations, as prescribed by the board, to test the competency of all first-time applicants for a wholesaler's license, powersports vehicle dealer's license, used powersports vehicle dealer's license, or powersports vehicle salesperson's license; (HB09-1026)(Effective 10-1-2009)

REGULATION 12-6-504 (1) (k).

1. Applicants may use the information provided by the Auto Industry Division to study for the examination. The following examination criteria shall apply to the examination process and the examination results: 1) The numerical percentage that will constitute a passing score of the examination, as determined from the ratio of questions correctly answered to questions asked shall be eighty-five percent (85%); 2) The number of times in a calendar day that an applicant may take the examination before being timed out prior to attempting the examination again shall be two (2); 3) The manner in which an applicant and others shall certify both the applicant's compliance with the required examination process and the authenticity of the examination results shall be by submission of an examination affidavit on the form approved by the board. (Effective 8/30/2010)

2. Any applicant or licensee who is found to have falsified the examination affidavit or provided answers to an applicant prior to or during the examination may be subject to disciplinary action. An applicant shall neither request nor permit any other person, including but not limited to any person administering the examination, to take the examination on his behalf or other wise to assist him or to participate in the taking of the examination. An applicant shall neither request nor accept answers to examination questions from any other person, including but not limited to any person administering the examination, either before or during the examination. An applicant who violates this rule is subject to denial, suspension, or revocation of his license. Any licensee who either 1) assists an applicant in violating this rule, 2) conspires with others in violating this rule, 3) falsifies information regarding the results of an applicant's licensing examination, or 4) otherwise falsely declares to the board or its representatives the manner in which an applicant took an examination, is subject to disciplinary action to the limits of the board's penal jurisdiction. (Effective 8/30/2010)

3. If an applicant is not licensed within one year of passing the examination, the score is removed from the record and the person must retake and pass the examination again, in accordance with the board's examination criteria, before a license can be issued. (Effective 8/30/2010)

4. The examination may be administered by the employing dealer or designated manager of the employing dealer, the Auto Industry Division, or a third party approved by the board.

5. If an applicant has held a license during the previous twelve months, the applicant shall not be required to retake the examination.

(I) Promulgate rules requiring off-highway vehicles sold by persons licensed under this part 5 to comply with ANSI/SVIA-1-2001 or a successor standard promulgated by the American national standards institute or its successor organization if such rules do not conflict with the ANSI standards or set standards more stringent than those set by ANSI.

(I) (I) Prescribe forms to be used as a part of a contract for the sale of a powersports vehicle by a powersports vehicle dealer or powersports vehicle salesperson, other than a retail installment sales contract subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5, C.R.S., that shall include the following information in addition to any other disclosures or information required by state or federal law:

REGULATION 12-6-504 (1)(1) (ANSI requirements)

1. Beginning with 2009 model year all Four-Wheel All- Terrain Vehicles sold by persons licensed under this part 5, shall meet the American National Standard for Four-Wheel All-Terrain Vehicles, ANSI/SVIA-1-2007 Standard or any successor standard.

2. This requirement of sale shall apply only to those Four-Wheel All-Terrain Vehicles manufactured as 2009 models and all model years manufactured thereafter.

3. All Four-Wheel All-Terrain Vehicles manufactured as 2009 models and all models manufactured thereafter shall be equipped with a certification label, placed in a location that allows viewing without removing any part of the ATV. The wording of such certification label shall comply with the requirements of Section 12, of the ANSI/SVIA-1-2007 Standard.

(A) In twelve-point, bold-faced type, or at least three points larger than the smallest type appearing in the contract, an instruction that the form is a legal instrument and that, if the purchaser of the powersports vehicle does not understand the form, such purchaser should seek legal assistance;

(B) In the type and size specified in sub-subparagraph (A) of this subparagraph (I), an instruction that only those terms in written form embody the contract for sale of a powersports vehicle and that any conflicting oral representations made to the purchaser are void;

(C) In the type and size specified in sub-subparagraph (A) of this subparagraph (I), a notice that fraud or misrepresentation in the sale of a powersports vehicle is punishable under the laws of this state;

(D) In the type and size specified in sub-subparagraph (A) of this subparagraph (I), if the contract for the sale of a powersports vehicle requires a single-lump sum payment of the purchase price, a clear disclosure to the purchaser of this fact or, if the contract is contingent upon the approval of credit financing for the purchaser arranged by or through the powersports vehicle dealer, a statement that the purchaser shall agree to purchase the powersports vehicle that is the subject of the sale from the powersports vehicle dealer at not greater than a certain annual percentage rate of financing that shall be agreed upon by the parties and entered in writing on the contract;

(E) Except as otherwise provided under this part 5, if the purchase price of the powersports vehicle is not paid to the powersports vehicle dealer in full at the time of consummation of the sale and the vehicle dealer delivers and the purchaser takes possession of the vehicle at such time, a statement in bold-faced type that, if financing cannot be arranged in accordance with the contract and the sale is not consummated, the purchaser shall agree to pay a daily rate for use of the vehicle until financing of the purchase price of the vehicle is arranged for the obligor by or through the authorized powersports vehicle dealer or until the purchase price is paid in full by or through the obligor, which daily rate shall be agreed upon in writing on the contract;

REGULATION 12-6-504 (1) (m) (I). Disclosure Form.

DISCLOSURES REQUIRED AS PART OF A MOTOR VEHICLE/POWERSPORTS VEHICLE SALES CONTRACT

These disclosures are required by Colorado Law unless the buyer has already been given a copy of a completed

retail installment sales contract that includes all disclosures required by federal and state laws. Initialing the provisions below incorporates them into your contract to purchase a Motor Vehicle/Powersports Vehicle.

Dealer/Agent's
Initials

Buyer's
Initials

- | | | |
|----|---|----|
| A. | IMPORTANT NOTICE: The papers you are signing as part of this Motor Vehicle / Powersports vehicle sale are legal documents. You should read them carefully and if there is anything you do not understand, you should seek legal assistance. | A. |
| B. | WARNING: Only the terms and conditions written into these documents are part of the contract. Be sure that any oral representations are also written into these documents otherwise they cannot be enforced. | B. |
| C. | Any fraud or misrepresentation in a Motor Vehicle/Powersports Vehicle sale is punishable under Colorado State Law. | C. |
| D. | The contract is for cash. It requires you to pay the dealer \$ _____, the total balance due after your trade-in and/or deposit(s) are deducted. Failure to pay this amount by _____ may result in the loss of any deposit(s) you have paid and/or your trade vehicle. | D. |

OR

Dealer has agreed to arrange financing for you and you agree to buy the Motor Vehicle/Powersports Vehicle if financing can be arranged at an interest rate that does not exceed _____% annual percentage rate. At this percentage rate your monthly payments would be _____ per month for _____ months, until paid in full, assuming a down payment or trade worth _____. This annual percentage rate must be agreed upon by both you and the dealer. Also, you are entitled by law to complete, written disclosure of all the loan terms and the contract is not binding until you receive such a disclosure and accept the loan terms disclosed.

- | | | |
|----|--|----|
| E. | You and the dealer have agreed that the vehicle will be delivered to you prior to the purchase price being paid in full. If financing cannot be arranged at the terms stated in the contract, and the contract is cancelled, you agree to pay the dealer \$ _____ dollars per day and _____ cents per mile for your use of the vehicle from the date of delivery until the vehicle is returned to the dealer. If the contract is cancelled, it may require you to immediately return the vehicle to the dealer and to pay the cost of repair for any damage occurring to the vehicle while it is in your possession along with the agreed upon daily and mileage charges. The contract may also give the dealer the right to take the vehicle from you 24 hours after cancellation and demand for the vehicle's return. You may also be required by the contract to pay any costs the dealer may have to pay in regaining possession of the vehicle. If you owe any money from daily and mileage charges, damage repair costs or repossession costs to the dealer when the vehicle is returned, the dealer may keep your deposit(s) up to the amount owed. Otherwise, the deposit must be returned unless you have agreed that it is non-refundable. | E. |
|----|--|----|

The Colorado Motor Vehicle Dealer Board has the authority to investigate all complaints arising from the sale of a Motor Vehicle/Powersports Vehicle from a licensed dealer. **Any complaints should be forwarded in writing to the Auto Industry Division on behalf of the Dealer Board to 1881 Pierce St. #142, Lakewood, CO 80214, or you may send via fax at 303-205-5977. You may visit our website at www.colorado.gov/revenue/enforcement or contact us at 303-205-5604.**

I hereby certify that I have received a copy of this I hereby certify that I have given the buyer a copy of this disclosure.

I hereby certify that I have given the buyer a copy of this disclosure.

Dealer/Agent's Printed Name

Buyer's Printed Name

Dealer/Agent's Signature

Date

Buyer's Signature

Date

(II) The information required by subparagraph (I) of this paragraph (m) shall be read and initialed by both parties at the time of the consummation of the sale of a powersports vehicle;

(III) The use of the contract form required by subparagraph (I) of this paragraph (m) shall be mandatory for the sale of a powersports vehicle;

(n) After final action is taken on a hearing held before an administrative law judge or a hearing officer designated by the board from within the board's membership, review the findings of law and fact and the fairness of any fine imposed and to uphold such fine, impose an administrative fine upon its own initiative that shall not exceed ten thousand dollars for each separate offense by any licensee, or vacate the fine imposed by the judge or hearing officer; except that, for powersports vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense shall not exceed one thousand dollars; and

(o) Impose a fine of up to one thousand dollars per day per violation for any person found, after notice and hearing pursuant to section 24-4-105, C.R.S., to have violated the provisions of section 12-6-523 (2).

REGULATION 12-6-504 (1) (o). *When considering whether to impose a fine and the amount of the fine, or other administrative penalty, the board will consider aggravating and mitigating circumstances, the degree of harm to a powersports vehicle purchaser, severity of offense, and whether there is a pattern of violations or repeat offenses.*

(2) The board shall:

(a) Order an investigation of all written and signed complaints;

(b) Require an application for a powersports vehicle dealer's license or used powersports vehicle dealer's license to contain, in addition to such information as the board may require, a statement of the following facts:

(I) The name and residence address of the applicant and any trade name under which the applicant intends to conduct business;

(II) If the applicant is a partnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted; and

(III) If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors;

(IV) A complete description, including the municipality, street, and number, if any, of the principal place of business, and any other additional places of business as shall be operated and maintained by the applicant;

(V) If the application is for a powersports vehicle dealer's license, the names of the new powersports vehicles that the applicant has been enfranchised to sell or exchange and the name and address of the powersports manufacturer or distributor who has enfranchised the applicant;

(VI) The name and address of any person who will act as a salesperson under the authority of the license, if issued.

(3) The findings of the board under subsection (1) of this section shall be final.

(4) (a) For the purposes of paragraphs (e) and (g) of subsection (1) of this section, the address for the notice to be given under section 24-4-105, C.R.S., is the last-known address for the person as indicated in the state motor vehicle records; the last-known address for the owner of the real property upon which powersports vehicles are displayed in violation of section 12-6-523 (2), as indicated in the records of the county assessor's office; or any address for service of process in accordance with rule 4 of the Colorado rules of civil procedure.

(b) A person who fails to pay a fine ordered by the board for a violation of section 12-6-523 (2) under paragraph (o) of subsection (1) of this section shall be subject to enforcement proceedings, by the board through the attorney general, in the county or district court pursuant to the Colorado rules of civil procedure. Fines collected under this subsection (4) shall be disposed of pursuant to section 12-6-528.

(5) (a) If a hearing is conducted by an administrative law judge, the maximum fine that may be imposed is ten thousand dollars for each separate offense by any person licensed by the board pursuant to this part 5; except that, for a powersports vehicle dealer who sells primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense may not exceed one thousand dollars.

(b) (I) If a licensing hearing is conducted by a hearing officer, the sanctions that may be recommended by the hearing officer are limited to the denial or grant of an unrestricted license or a restricted license under such terms as the hearing officer deems appropriate.

(II) If a disciplinary hearing is conducted by a hearing officer, the hearing officer may only recommend a probationary period of no more than twelve months, a fine of no more than five hundred dollars, or both such probationary period and fine for each separate violation committed by a person licensed by the board.

12-6-505. Powers and duties of executive director. (1) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of powersports vehicle distributors, powersports vehicle manufacturer representatives, and powersports vehicle manufacturers, and shall have the following powers and duties:

REGULATION 12-6-505 (1) All manufacturers doing business in the state of Colorado, irrespective of whether they maintain or have places of business herein, must be licensed as such.

The sale of any new and unused powersports vehicles, either directly or indirectly in the state of Colorado shall constitute doing business in the state by the manufacturer and shall subject such manufacturer to the requirements of this article.

(a) To promulgate, amend, and repeal rules reasonably necessary to undertake the functions the executive director is mandated to carry out pursuant to this part 5 and to administer the laws of this state that the executive director deems necessary to carry out the duties of the office of the executive director pursuant to this part 5;

(b) To employ, subject to the laws of this state and after consultation with the board, an executive secretary for the board, who shall be accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this part 5;

(c) To employ and assign duties to clerks, deputies, and assistants, which duties the executive director considers necessary to discharge the duties imposed upon the executive director by this part 5;

(d) To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under this part 5, to refuse to issue to an applicant any license the executive director is authorized to issue by this part 5;

(e) To investigate, upon the executive director's own initiative, upon the written and signed complaint of any person, or upon request by the board pursuant to section 12-6-504 (1) (f) (I), any suspected or alleged violation of this part 5, or of any rule promulgated by the executive director under this section, by any person licensed by the executive director pursuant to this part 5;

(f) To delegate authority to persons for the purpose of investigating alleged or suspected violations of this part 5. The investigators and their supervisors utilized by the executive director, while actually engaged in performing their duties, shall have the authority as delegated by the executive director:

(I) To issue subpoenas, in accordance with the performance of their duties, to licensees who are under the jurisdiction of the executive director;

(II) To issue summonses for violations of section 12-6-523 (2);

(III) To issue misdemeanor summonses for violations of section 12-6-522 (1) (a); and

(IV) To procure criminal records during an investigation.

(g) To prescribe the forms to be used for applications for licenses to be issued by the executive director under this part 5 and to require of applicants, as a condition precedent to the issuance of a license, such information concerning the applicant's fitness to be licensed under this part 5 as the executive director considers necessary;

REGULATION 12-6-505 (1) (g).

1. All applications for licenses shall be made upon forms prescribed by the executive director. No application will be considered which is not complete in every material detail, nor which is not accompanied by a remittance in full for the whole amount of the annual license fee.

If the applicant is a partnership, it shall submit with the application a certificate of partnership.

If the applicant is a corporation, it shall submit with the application a copy of its articles of incorporation, and if a foreign corporation, evidence of its qualification to do business within the state. In addition, each corporation applicant shall submit the names and addresses of all persons holding ten percent or more of the outstanding and issued capital stock of said corporation. Any transfer of ten percent or more of the capital stock of any corporation holding a license under the provisions of this article shall be reported to executive director not less than ten days prior to such transfer. All such reports shall be made on forms supplied by the executive director.

Upon request of the executive director, applicants for a license shall provide suitable additional evidence of residence, good character and reputation. Applicants and licensees shall also

submit upon request by the executive director all required information concerning financial and management associations and interests of other persons in the business.

No licensee shall change the name or trade name of the business, the place of business or business address without submitting written notice to the executive director, not less than ten days prior to the change.

All information submitted to the executive director, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. The failure of an applicant or licensee to so inform the executive director shall be grounds for the suspension, revocation, or denial of the license.

2. A change in the nature of the legal structure of a licensee's business shall be cause for the revocation of the license and shall require a new application and fee.

(h) (I) To summarily issue cease and desist orders on such terms and conditions, and for such period of time as the executive director deems fair and just, to any person who is licensed by the executive director pursuant to this part 5 if such orders are followed by notice and a hearing pursuant to section 12-6-504 (4) (a);

REGULATION 12-6-505 (1)(h). If it shall appear from an investigation by the executive director and executive director agents and representatives, or shall otherwise come to the attention of the executive director that there is probable cause to believe that a licensee has violated any provision set forth in this article or any rule or regulation promulgated in accordance therewith, executive director shall issue and cause to be served upon such licensee either by certified mail at the last address furnished the executive director by the licensee, or by personal service upon the licensee, a notice of hearing.

A hearing shall be held at a place and time designated by the executive director on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and explanation, and shall be allowed to give evidence

and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in aggravation of the offense shall also be permitted.

After considering all the evidence and arguments presented at the hearing, the executive director will make a final determination either at the hearing or within a reasonable time thereafter, and send the licensee by certified mail at the last address furnished the executive director by the licensee or by personal service upon the licensee a notice of final determination. In the event the licensee is found not to have violated any law, rule or regulation, the charges against the licensee will be dismissed. If the licensee is found to have violated some law, rule or regulation, a cease and desist order shall be issued by the executive director, and in the proper case the licensee's license suspended or revoked on such terms and conditions and for such period of time as to the executive director shall appear fair and just. The decision of the executive director shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate rule, order, sanction, relief or denial thereof. Failure to appear for the hearing without good cause shown shall be grounds for automatic suspension or revocation of the license.

(II) To issue cease and desist orders to persons acting as powersports vehicle manufacturers without the powersports vehicle manufacturer's license required by this part 5; and

(III) To impose a fine, not to exceed one thousand dollars per day, for each violation of section 12-6-523 (1), after a notice and hearing subject to section 24-4-105, C.R.S.

(2) If a person fails to comply with a cease and desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further violation of such order. In any such suit, the final proceedings of the executive director, based upon evidence in record, shall be prima facie evidence of the facts found therein.

12-6-506. Records as evidence. Copies of all records and papers in the office of the board or the executive director, duly authenticated under the hand and seal of the board or executive director, shall be received in evidence in all cases equally and with like effect as the original.

12-6-507. Attorney general to advise and represent. (1) The attorney general shall represent the board and executive director and shall give opinions on questions of law relating to the interpretation of this part 5 or arising out of the administration thereof and shall appear for and in behalf of the board and executive director in all actions brought by or against them, whether under the provisions of this part 5 or otherwise.

(2) The board may request the attorney general to make civil investigations and enforce rules and regulations of the board in cases of civil violations and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the board.

12-6-508. Classes of licenses. (1) Licenses issued under this part 5 shall be of the following classes: (HB09-1026)(Effective 10-1-2009)

(a) A powersports vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering new and used powersports vehicles, which license shall not permit more than two persons named therein as owners of the business of the licensee to act as powersports vehicle salespersons.

(b) A used powersports vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering used powersports vehicles only. Such license shall also permit a licensee to negotiate for a consumer the sale, exchange, or lease of used and new powersports vehicles not owned by the licensee. Prior to completion of a sale, exchange, or lease of a powersports vehicle not owned by the licensee, the licensee shall disclose in writing to the consumer whether the licensee will receive compensation from the consumer or the owner of the powersports vehicle as a result of such transaction. If the licensee receives compensation from the owner of the powersports vehicle as a result of the transaction, the licensee shall include in the written disclosure the name of such owner from whom the licensee will receive compensation. This license shall not permit more than two persons named therein who shall be owners of the business of the licensee to act as powersports vehicle salespersons.

REGULATION 12-6-508 (1) (b). Compensation Disclosures.

1. Whenever a used powersports vehicle dealer negotiates the sale, exchange, or lease of a powersports vehicle or used powersports vehicle not owned by the used powersports vehicle dealer, the following form will be deemed adequate to satisfy the disclosure requirements of section 12-6-508 (1)(b), C.R.S., for the used powersports vehicle dealer. This form is an example of adequate disclosure; nothing herein shall be construed to limit permissible disclosure to the information shown.

COMPENSATION DISCLOSURES

Pursuant to Colorado law, _____ hereby discloses
to _____ (used powersports dealer)
_____ (consumer)

1. My dealership will receive compensation from the consumer. (Check one)

___ Yes ___ No

2. My dealership will receive compensation from the owner of the vehicle if a sale, exchange

or lease is concluded. (Check one)

___ Yes ___ No

(NAME OF OWNER)

Used Powersports Vehicle Dealer Dealer # Authorized Dealer
Signature Date

I have been provided a copy of the above disclosure prior to completion of such sale, exchange or lease of a powersports vehicle not owned by the licensee.

Signature of Consumer Printed Name Date

(c) A powersports vehicle salesperson's license shall permit the licensee to engage in the activities of a powersports vehicle salesperson.

(d) A powersports vehicle manufacturer's or distributor's license shall permit the licensee to engage in the activities of a powersports manufacturer or distributor;

(e) A powersports vehicle manufacturer representative's license shall permit the licensee to engage in the activities of a powersports vehicle manufacturer representative.

(f) A wholesaler's license shall permit the licensee to engage in the activities of a wholesaler.
(HB09-1026)(Effective 10-1-2009)

(2) (a) A person who is licensed as a motor vehicle salesperson pursuant to part 1 of this article shall be deemed to be licensed as a powersports vehicle salesperson under this part 5.

(b) A person who is licensed as a motor vehicle manufacturer or distributor pursuant to part 1 of this article shall be deemed to be licensed as a powersports vehicle manufacturer or distributor under this part 5.

(c) A person who is licensed as a motor vehicle manufacturer pursuant to part 1 of this article shall be deemed to be licensed as a powersports vehicle manufacturer under this part 5.

12-6-509. Temporary powersports vehicle dealer license. (1) If a licensed powersports vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has been awarded a new franchise, the board may issue a temporary powersports vehicle dealer's license to such purchaser or prospective purchaser. The executive director shall issue the temporary license only after the board has received the applications for both a temporary powersports vehicle dealer's license and a powersports vehicle dealer's license, the appropriate application fee for the powersports vehicle dealer's application, evidence of a passing score of the written examination described in section 12-6-515, and evidence that the franchise has been awarded to the applicant by the powersports vehicle manufacturer. A temporary powersports vehicle dealer's license shall authorize the licensee to act as a powersports vehicle dealer and subject the licensee to this article and to all rules adopted by the executive director or the board. A temporary powersports vehicle dealer's license shall be effective for up to sixty days or until the board acts on such licensee's application for a powersports vehicle dealer's license, whichever is sooner.

Regulation 12-6-509(1) Evidence of a passing score shall be as required by Regulation 12-6-504(1)(k). (Effective 8/30/2010)

(2) For the purpose of enabling an out-of-state dealer to sell powersports vehicles on a temporary basis during specifically identified events, the executive director may issue, upon direction by the board, a temporary powersports vehicle dealer's license that shall be effective for thirty days. The temporary license shall subject the licensee to compliance with rules adopted by the executive director or the board.

REGULATION 12-6-509 (2). Applicants for an out-of-state temporary dealer license shall submit completed application, bond, and license fee. Specifically identified events shall include the Colorado State Fair, National Western Stock Show, and the annual Denver RV, Sports, Boat and Travel Show. Such out-of-state dealer shall provide evidence that the manufacturer has authorized the dealer to do business at such location in

Colorado. No more than three out-of-state dealer licenses shall be issued to any one dealer per license year.

12-6-510. Display, form, custody, and use of licenses. The board and the executive director shall prescribe the form of the license to be issued by the executive director, and each license shall have imprinted thereon the seal of their offices. The license of each powersports vehicle salesperson shall be mailed to the business address where the salesperson is licensed and shall be kept by the salesperson at such salesperson's place of employment for inspection by employers, consumers, the executive director, or the board. A powersports vehicle dealer or wholesaler shall display conspicuously the person's license in the person's place of business. Each license issued pursuant to this part 5 is separate and distinct. It shall be a violation of this part 5 for a person to exercise any of the privileges granted under a license that such person does not hold, or for a licensee to knowingly allow such an exercise of privileges. (HB09-1026)(Effective 10-1-2009)

12-6-511. Fees - disposition - expenses - expiration of licenses. (1) The fee established pursuant to subsection (5) of this section shall be collected with each application for each of the following:

(a) (I) Powersports vehicle dealer's license or used powersports vehicle dealer's license;

(II) Powersports vehicle dealer's or used powersports vehicle dealer's license for each place of business in addition to the principal place of business;

(III) Renewal or reissue of powersports vehicle dealer's license or used dealer's license after change in location or lapse in principal place of business;

(b) Powersports manufacturer's license;

(c) Powersports distributor's license;

(d) Powersports manufacturer representative's license;

(e) Powersports vehicle salesperson's license including, without limitation, reissuing a license.

(f) Wholesaler's license. (HB09-1026)(Effective 10-1-2009)

(2) Fees shall be paid to the state treasurer who shall credit the same to the auto vehicle dealers license fund.

(3) If an application for a wholesaler's license, powersports vehicle dealer's, used powersports vehicle dealer's or powersports salesperson's license is withdrawn by the applicant prior to

issuance of the license, one-half of the license fee shall be refunded. (HB09-1026)(Effective 10-1-2009)

(4) (a) Licenses issued under this part 5, if not suspended or revoked, shall be valid until one year following the month of issuance thereof and shall then expire; except that any license issued under this part 5 shall expire upon the voluntary surrender thereof or upon the abandonment of the licensee's place of business for a period of more than thirty days.

(b) Thirty days prior to the expiration of a license, the executive director shall mail to the licensee's business address of record a notice stating when the person's license is due to expire and the fee necessary to renew such license. For a powersports vehicle salesperson or powersports vehicle manufacturer representative, the notice shall be mailed to the address of the powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle manufacturer where person is licensed.

(c) Upon the expiration of a license, unless suspended or revoked, it may be renewed upon the payment of the application fees specified in this section and renewal shall be made from year to year as a matter of right; except that, if a wholesaler or powersports vehicle dealer voluntarily surrenders its license or abandons its place of business for a period of more than thirty days, the licensee is required to file a new application to renew its license. (HB09-1026)(Effective 10-1-2009)

(d) Notwithstanding paragraph (a) of this subsection (4), a person has a thirty-day grace period after the license expires in which the license may be renewed pursuant to paragraph (c) of this subsection (4), so long as the person has a bond in full force and effect that complies with the applicable bonding requirements of section 12-6-512 or 12-6-513 during the thirty-day period. A person applying during the thirty-day grace period shall pay a late fee established pursuant to subsection (5) of this section.

(5) (a) The board shall propose, as part of its annual budget request, an adjustment in the amount of each fee that the board is authorized by law to collect. The budget request and the adjusted fees for the board shall reflect direct and indirect costs.

(b) Based upon any appropriation made and subject to the approval of the executive director, the board shall adjust the fees collected by the executive director so that the revenue generated from fees covers the direct and indirect costs of administering this part 5. Such fees shall remain in effect for the fiscal year for which the appropriation is made.

(c) In any year, if moneys appropriated by the general assembly to the board for its activities for the prior fiscal year are unexpended, the moneys shall be made a part of the appropriation to the board for the next fiscal year, and the amount shall not be raised from fees collected by the board or the executive director. If a supplemental appropriation is made by the general assembly to the board for its activities, the fees of the board and the executive director, when adjusted for

the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount that is sufficient to compensate for such supplemental appropriation. Moneys appropriated to the board in the annual general appropriation bill shall be from the fund provided in section 12-6-123.

12-6-512. Bond of licensee. (1) A wholesaler's license, powersports vehicle dealer's license or used powersports vehicle dealer's license shall not be issued to any applicant unless the applicant procures and files with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or a good and sufficient bond with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general, and conditioned that the applicant shall not make any fraudulent representation or violate any of the provisions of this part 5 or any rule promulgated by the board under this part 5. A powersports vehicle dealer or used powersports vehicle dealer shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if such dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 12-6-111. (HB09-1026)(Effective 10-1-2009)

(2) (a) The purpose of the bond procured by the applicant pursuant to subsection (1) of this section and section 12-6-513 is to provide for the reimbursement for any loss or damage suffered by any retail consumer caused by violation of this part 5 by a wholesaler, powersports vehicle dealer or used powersports vehicle dealer. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, such consumer shall have priority to recover from the bond. The amount of the bond shall be fifty thousand dollars for each wholesaler applicant, powersports vehicle dealer applicant and used powersports vehicle dealer applicant. The aggregate liability of the surety for all transactions shall not exceed the amount of the bond, regardless of the number of claims or claimants. (HB09-1026)(Effective 10-1-2009)

(b) No corporate surety shall be required to make a payment to any person making a claim under such bond until a final determination of fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) Bonds required pursuant to this section shall be renewed annually when the bondholder's license is renewed. Bonds may be renewed through a continuation certificate issued by the surety.

(4) Nothing in this part 5 shall interfere with the authority of the courts to administer and conduct an interpleader action for claims against a licensee's bond.

12-6-513. Powersports vehicle salesperson's bond. (1) A powersports vehicle salesperson's license shall not be issued unless the applicant has procured and filed with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or a good and sufficient bond in the amount of fifteen thousand dollars with

corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general and conditioned that the applicant shall perform in good faith as a powersports vehicle salesperson without fraud or fraudulent representation and without violating this part 5 or any rule promulgated by the board under this part 5. The board shall implement by January 1, 2008, a psychometrically valid and reliable salesperson exam that measures the minimum level of competence necessary to practice. A powersports vehicle salesperson shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if such salesperson furnishes a bond, savings account, deposit, or certificate of deposit under section 12-6-112.

(2) No corporate surety shall be required to make a payment to any person claiming under such bond until a final determination of fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) Bonds required under this section shall be renewed annually when the bondholder's license is renewed. Bonds may be renewed through a continuation certificate issued by the surety.

12-6-514. Notice of claims honored against bond. (1) A corporate surety that has provided a bond to a licensee pursuant to section 12-6-512 or 12-6-513 shall provide notice to the board and executive director of any claim that is honored against the bond. The notice shall be provided to the board and executive director within thirty days after a claim is honored.

(2) A notice provided by a corporate surety pursuant to subsection (1) of this section shall be in the form required by the executive director, subject to approval by the board, and shall include, without limitation, the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

12-6-515. Testing licensees. All persons applying for a wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's or powersports vehicle salesperson's license under this part 5 shall be examined for their knowledge of the powersports vehicle laws of the state of Colorado and the rules promulgated pursuant to this part 5. If the applicant is a corporation, the managing officer shall take the examination, and, if the applicant is a partnership, all the general partners shall take such examination. No license shall be issued except upon successful passing of the examination. This section shall not apply to a motor vehicle dealer, used motor vehicle dealer, or motor vehicle salesperson licensed pursuant to part 1 of this article. (HB09-1026)(Effective 10-1-2009)

Regulation 12-6-515. See Regulation 12-6-504(1)(k)(Effective 8/30/2010)

12-6-516. Filing of written warranties. A licensed powersports vehicle manufacturer shall file with the executive director all written warranties and changes in written warranties the manufacturer makes on powersports vehicle or parts thereof. A licensed powersports vehicle manufacturer shall file with the executive director a copy of the delivery and preparation

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obligations of a powersports vehicle manufacturer's dealer, and these warranties and obligations shall constitute the powersports vehicle dealer's only responsibility for product liability as between the powersports vehicle dealer and the powersports vehicle manufacturer. Any mechanical, body, or parts defects arising from an express or implied warranties of the powersports vehicle manufacturer shall constitute the powersports vehicle manufacturer's product or warranty liability, and the powersports vehicle manufacturer shall reasonably compensate any authorized powersports vehicle dealer who performs work to rectify a powersports vehicle manufacturer's product or warranty defects.

12-6-517. Application. (1) An application for a wholesaler's license, powersports vehicle dealer's license, used powersports vehicle dealer's license, or powersports salesperson's license shall be submitted to the board. (HB09-1026)(Effective 10-1-2009)

(2) An application for a powersports vehicle distributor, powersports vehicle manufacturer's representative, or powersports vehicle manufacturer license shall be submitted to the executive director.

(3) Fees for licenses shall be paid at the time of the filing of application for license.

(4) Persons applying for a powersports vehicle dealer's license shall file with the board a certified copy of a certificate of appointment as a powersports vehicle dealer from a powersports vehicle manufacturer.

(5) A person applying for a powersports vehicle manufacturer's or distributor's license shall file with the executive director a certified copy of a typical written agreement with all powersports vehicle dealers, and also evidence of the appointment of an agent for process in the state of Colorado shall be included with the application.

REGULATION 12-6-517 (5). "Agreement" means contract or franchise or any other terminology used to describe the contractual relationship between manufacturers, distributors and powersports vehicle dealers.

Manufacturers and distributors shall notify the executive director immediately of the appointment of any additional dealers, of any revisions or additions to the typical written agreement on file, or of any supplements to such agreement. Agreements are deemed to be continuing unless the manufacturer or distributor has notified the executive director of the discontinuation or cancellation of the agreement of any of its dealers.

If a manufacturer or distributor does not enter into any formal written agreement with its dealers, written notice to this effect shall be given to the executive director and placed on file.

(6) Persons applying for a wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or a powersports vehicle salesperson's license shall file with the board a written instrument in which the applicant shall appoint the secretary of the board as the agent of the applicant upon whom all process may be served in any action against the applicant arising out of a claim for damages suffered by a violation of this part 5, rules promulgated under this part 5, or any condition of the applicant's bond. (HB09-1026)(Effective 10-1-2009)

REGULATION 12-6-517 (6). *In any case wherein a licensee or licensees are served with process by service upon the secretary of the board, the secretary shall, no later than two days after the service of said process, mail a copy thereof to each such licensee addressed to the licensee at the last address furnished to the board by the licensee, by certified mail with request for return receipt. A copy shall also be mailed to the surety on the licensee's bond at the address of the surety given in said bond, by certified mail with request for return receipt.*

(7) (a) A person applying for a wholesaler's license or used powersports vehicle dealer's license shall file with the board a certification that the applicant has met the educational requirements for licensure under this subsection (7), unless the applicant is licensed as a motor vehicle dealer or a used motor vehicle dealer. This subsection (7) shall not apply to a person who has held a license, within the last three years, as a motor vehicle dealer, used motor vehicle dealer, wholesaler, wholesale motor vehicle auction dealer, powersports vehicle dealer, or used powersports vehicle dealer under this part 5 or part 1 of this article. (HB09-1026)(Effective 10-1-2009)

(b) An applicant for a wholesaler's license or used powersports vehicle dealer's license shall not be licensed unless one of the following persons has completed an eight-hour prelicensing education program: (HB09-1026)(Effective 10-1-2009)

(I) The managing officer if the applicant is a corporation or limited liability company;

(II) All of the general partners if the applicant is any form of Partnership; or

(III) The owner or managing officer if the applicant is a sole proprietorship.

(c) The pre-licensing education program shall include, without limitation, state and federal statutes and rules governing the sale of powersport vehicles.
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(d) A pre-licensing education program shall not fulfill the requirements of this section unless approved by the board. The board shall approve any program with a curriculum that reasonably covers the material required by this section within eight hours.

REGULATION 12-6-517 (7) (d) (Effective 12/31/2008)

- 1. The board hereby delegates to the board's executive secretary the authority to execute all actions within the authority of the board respective to the Pre-licensing Education Program.*
- 2. The executive secretary shall provide public notice a) immediately after the effective date of these rules, and b) once every year thereafter, by means of publication on the board's website, which public notice shall contain a general description of the Pre-licensing Education Program requirements and shall indicate the procedures by which interested persons may apply to obtain approval from the executive secretary to provide a Pre-licensing Education Program.*
- 3. The executive secretary shall evaluate each Pre-licensing Education Program application for compliance with the requirements of the relevant statutes and rules.*
- 4. An approval of a Pre-licensing Education Program is for a period of one year from the date of approval.*
- 5. A Pre-licensing Education Program Provider can reapply by means of an updated application for an approval of its program in subsequent years.*
- 6. The executive secretary shall, by means of a Letter of Approval, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been approved in its initial or a subsequent term, of the specific dates of the one-year term of the approval and of the procedures to apply to renew the approval for subsequent one-year terms.*
- 7. The executive secretary shall, by means of a Letter of Denial, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been denied in its initial or a subsequent term, of the basis and reasons for the denial and the procedure to follow to appeal the denial to the board.*
- 8. Any recipient of a Letter of Denial shall have the right to appeal that denial to the board by means of a request for a hearing in writing within sixty (60) days after notice of the denial.*
- 9. Any approved Pre-licensing Education Program Provider or prior approved Pre-licensing Education Program Provider may bring to the board a complaint or concern about the*

administration of the program application and approval process. The Provider must first seek to resolve the matter with the executive secretary. The Provider may bring its complaint or concern to the board by means of a request in writing within thirty (30) days of the failure of the Provider's efforts to resolve the matter with the executive secretary.

10. The executive secretary shall provide to the board the name of each approved Pre-licensing Education Program Provider and the term of approval for that Provider.

11. The executive secretary shall post on the board's website a list of the names, addresses, and contact information, as provided to the executive secretary, for each approved Pre-licensing Education Program Provider, showing the term of approval for each Provider and the geographic scope of each Provider's program.

12. An approved Pre-licensing Education Program Provider that intends to cease operations, must provide the executive secretary with a written notice of cessation of its Pre-licensing Education Program at least 180 days in advance of the last date on which the Pre-licensing Education Program Provider will provide instruction in its Pre-licensing Education Program.

13. An approved Pre-licensing Education Program Provider shall maintain a place of business in the state of Colorado.

14. An approved Pre-licensing Education Program Provider shall maintain the following records at its Colorado place of business for a period of at least three (3) years from the date of the instruction of any participant: 1) the specific curriculum administered; 2) the specific handouts or other ancillary teaching materials provided or available to the participant; 3) the specific validation test or tests used; 4) the registration data for each participant, showing the participant's name, business association, date of participation, and means by which the participant was identified; 5) the specific validation test result(s) for the given participant; 6) the name of the instructor or other program authority who administered the program to the participant; and, 7) a copy of the completion certificate provided to the participant.

15. The executive secretary shall have the authority as a matter of routine compliance investigation, or upon the receipt of a specific complaint, to perform an investigation of the activities of a Pre-licensing Education Program Provider.

16. The executive secretary shall have the authority to obtain copies at no cost to the State of all materials utilized in or related to a Pre-licensing Education Program, including, but not limited to, the records of a Pre-licensing Education Program Provider respective to any or all persons who have participated in the Provider's program.

17. Procedures for the suspension or revocation of the approval of a Pre-licensing Education Program Provider shall be in accordance with sections 24-4-104 and 24-4-105, C.R.S.

(e) The board may adopt rules establishing reasonable fees to be charged for the pre-licensing education program.

(f) The board may adopt reasonable rules to implement this section, including, without limitation, rules that govern:

(I) The content and subject matter of education;

REGULATION 12-6-517 (7) (f) (I) (Effective 12/31/2008)

The Pre-Licensing Education Program shall include in its content, federal and Colorado state laws and federal and Colorado state regulations governing motor vehicle dealers. The education curriculum shall contain without limitation titles 4, 5, 6, 12, 18, 39, and 42 of the Colorado Revised Statutes applicable to motor vehicle dealers and motor vehicle sales and Federal Laws and Rules applicable to motor vehicle dealers and motor vehicle sales.

(II) The criteria, standards, and procedures for the approval of courses and course instructors;

REGULATION 12-6-517 (7) (f) (II) (Effective 12/31/2008)

1. An application from a prospective Pre-licensing Education Program Provider or a renewal application of a prior-approved Pre-licensing Education Program Provider must contain each of the following items:

a. Identifying information, to include the applicant's full legal name, the mailing address of its Colorado place of business, telephone number(s), email address(es), if any, and website addresses, if any. Addresses in addition to that of the Colorado place of business may also be provided, although communications will go to the Colorado place of business only.

b. Contact information, to include the name and title of any individual(s) who have authority to speak on behalf of the applicant.

c. A Pre-licensing Education Program Proposal for the delivery of the required education. The Proposal must include each of the following items, but may include additional items: 1) the manner of completing the eight (8) required hours of classroom instruction; 2) a detailed outline of curriculum (or full course materials, if available); 3) the full legal names and dates of birth of all instructors, teachers, and curriculum preparers, and their respective educational credentials (faculty additions and changes may later be made, subject to approval by the executive secretary); 4) routine educational materials, if any, which will be made available to program participants as part of the pre-licensing education program either prior to, during, or subsequent to the classroom attendance time; 5) optional educational materials, if any, which will be made available to program participants as supplements, enhancements, or enrichments in addition to routine educational materials; 6) the testing protocols and baselines of achievement that will be used to ensure that a program participant has learned what the program is required by law to teach; and, 7) the methods that the Pre-licensing

Education Program Provider will consistently use a) to establish the identity of each participant in the Pre-licensing Education Program and b) to verify that any test or examination validating achievement in the Pre-licensing Education Program is taken by the individual participant whose identity had been established and not by another person.

2. The provider of a Pre-licensing Education Program must have a minimum of three (3) years experience in the regulation and enforcement of state and federal laws governing motor vehicle dealers and motor vehicle sales, or have three (3) years experience as an instructor working for an approved Pre-licensing Education Program provider.

3. The executive secretary shall require additional information from any applicant, in the event that the application is deficient with regard to any of the noted materials, or in the event that more information is needed to reach a decision on the application.

(III) The training facility requirements; and

REGULATION 12-6-517 (7) (f) (III) (Effective 12/31/2008)

1. A Pre-licensing Education Program Provider must maintain an educational site, or sites, appropriate to classroom instruction.

2. A Pre-licensing Education Program Provider must ensure the integrity of its educational materials and the instructional records of its participants, each being subject to inspection by the executive secretary.

3. The executive secretary will evaluate each prospective Pre-licensing Education Program Provider and each prior-approved Pre-licensing Education Program Provider reapplying for program approval with regard to the above criteria.

(IV) The methods of instruction.

REGULATION 12-6-517 (7) (f) (IV) (Effective 12/31/2008)

1. The methods of instruction may vary according to the approved Pre-licensing Education Program approved for any given Pre-licensing Education Program Provider, and may include within the eight-hour classroom instruction limitation: 1) traditional or non-traditional classroom instruction geared to adult learners, with testing validation; and, 2) CD or DVD instruction, with provisions for testing validation.

2. The methods of instruction actually used must match those that were approved through the application process.

(g) An approved pre-licensing program provider shall issue a certificate to a person who successfully completes the approved pre-licensing education program. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously at

the dealership's principal place of business.

REGULATION 12-6-517 (7) (g) (Effective 12/31/2008)

An approved Pre-licensing Education Program Provider shall issue a Program-completion Certificate to each person who successfully completes an approved Pre-licensing Education Program. The Certificate shall be on a form approved by the Executive Secretary and shall be issued within ten (10) days of successful completion of the Pre-licensing Education Program.

(h) An approved pre-licensing program provider shall submit a certificate to the executive director for each person who successfully completes the prelicensing education program. The certificate may be transmitted electronically.

REGULATION 12-6-517 (7) (g) (Effective 12/31/2008)

An approved Pre-licensing Education Program Provider shall issue a Program-completion Certificate to each person who successfully completes an approved Pre-licensing Education Program. The Certificate shall be on a form approved by the Executive Secretary and shall be issued within ten (10) days of successful completion of the Pre-licensing Education Program.

12-6-518. Notice of change of address or status. (1) The board, through the executive director, shall not issue a powersports vehicle dealer's license or used powersports vehicle dealer's license to an applicant who has no principal place of business. If a powersports vehicle dealer or used powersports vehicle dealer changes the site or location of the dealer's principal place of business, the dealer shall immediately notify the board in writing, and thereupon, a new license shall be granted for the unexpired portion of the term of the existing license at a fee established pursuant to section 12-6-511. If a powersports vehicle dealer or used powersports vehicle dealer ceases to possess a principal place of business where the dealer conducts the business for which the dealer is licensed, the dealer shall immediately notify the board in writing and, upon demand by the board, shall deliver the dealer's license, which shall be held and retained until it appears to the board that the licensee possesses a principal place of business; whereupon, the dealer's license shall be reissued. Nothing in this part 5 shall be construed to prevent a powersports vehicle dealer or used powersports vehicle dealer from conducting the business for which the dealer is licensed at one or more sites or locations not contiguous to the dealer's principal place of business but operated and maintained in conjunction therewith.

(2) Should the powersports vehicle dealer change to a new line of powersports vehicles, add another franchise for the sale of new powersports vehicles, or cancel or otherwise lose a franchise for the sale of new powersports vehicles, the dealer shall immediately notify the board. If a franchise is canceled or lost, the board shall determine whether the dealer should be licensed as a used powersports vehicle dealer. If so, the board shall cancel and the powersports vehicle dealer shall deliver to it the dealer's license, and the board shall direct the executive director to issue to the dealer a used powersports vehicle dealer's license. Upon the cancellation or loss of a franchise to sell new powersports vehicles and the re-licensing of the dealer as a used

powersports vehicle dealer, the dealer may continue in the business for which a powersports vehicle dealer is licensed for a time, not exceeding six months after the re-licensing of the dealer, to enable the dealer to dispose of the stock of new powersports vehicles on hand at the time of the relicensing, but not otherwise.

(3) If a powersports vehicle salesperson is discharged, leaves an employer, or changes a place of employment, the powersports vehicle dealer who last employed the salesperson shall confiscate and return the salesperson's license to the board. Upon being reemployed as a powersports vehicle salesperson, the powersports vehicle salesperson shall notify the board. Upon receiving the notification, the board shall issue a new license for the unexpired portion of the returned license after collecting a fee set pursuant to section 12-6-511 (5). It shall be unlawful for the salesperson to act as a powersports vehicle salesperson until a new license is procured.

(4) Upon a change of place of business or business address, a wholesaler shall immediately notify the board of the change. (HB09-1026)(Effective 10-1-2009)

12-6-519. Principal place of business - requirements. (1) The building or structure required to be located on a principal place of business shall have electrical service and adequate sanitary facilities.

REGULATION 12-6-519 (1).

1. "Adequate sanitary facilities" means a permanent sewer hookup, cesspool or septic tank with leaching field, or portable chemical toilet.

2. A dealer's license shall not be issued to a person located at a principal place of business or other additional locations unless such place of business or additional locations are owned or leased by and actually occupied by the applicant. A powersports vehicle dealer's license shall be suspended or revoked if the dealer's principal place of business or other additional locations are not owned or leased by and not actually occupied by the licensee.

(2) A room in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house shall not be used as a principal place of business unless the entire ground floor of the hotel, apartment house, or rooming house building or the dwelling house is devoted principally to and occupied for commercial purposes and the office of the dealer is located on the ground floor thereof.

(3) Nothing in this section shall be construed to exempt a powersports vehicle dealer or used powersports vehicle dealer from local zoning ordinances.

12-6-520. Licenses - grounds for denial, suspension, or revocation. (1) A powersports vehicle manufacturer's or distributor's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this part 5 or any rule promulgated by the executive director under this part 5;

(c) Engaging, in the past or present, in any illegal business practice.

(2) A powersports vehicle manufacturer representative's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this part 5 or any rules promulgated by the executive director under this part 5;

(c) Committing any unconscionable business practice under title 4, C.R.S.;

(d) Having coerced or attempted to coerce a powersports vehicle dealer to accept delivery of any powersports vehicle, parts or accessories therefore, or any other commodities or services that have not been ordered by the dealer;

(e) Having coerced or attempted to coerce a powersports vehicle dealer to enter into any agreement to do an act unfair to the dealer by threatening to cause the cancellation of the dealer's franchise;

(f) Having withheld, threatened to withhold, reduced, or delayed without just cause an order for powersports vehicles, parts or accessories therefore, or any other commodities or services that have been ordered by a powersports vehicle dealer; or

(g) Engaging, in the past or present, in any illegal business practice.

(3) A wholesaler's license, powersports vehicle dealer's license or a used powersports vehicle dealer's license may be denied, suspended, or revoked on the following grounds: (HB09-1026)(Effective 10-1-2009)

(a) Material misstatement in an application for a license;

REGULATION 12-6-520 (3) (a). "Material misstatement" means any relevant false or misleading statement, omission, or misrepresentation by the applicant or a partner, officer, director, or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, regarding personal identification information, employment history, personal or business entity financial information, prior occupational licensing history, whether regarding a license issued by the board or any other licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, and deferred judgments, civil judgments, assurances of discontinuance, consent order/decreed, and/or stipulation arising from the operating of a business in this state or any other state engaged in the sale, lease, or distribution of powersports vehicles. This Regulation does not apply to shareholders of corporations, who own less than five per-cent, that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended.

(b) Willful failure to comply with this part 5 or any rule promulgated by the executive director under this part 5;

(c) Having been convicted of or pled nolo contendere to any felony or crime pursuant to article 3, 4, or 5 of title 18, C.R.S., or any like crime pursuant to federal law or the law of another state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of the conviction in a hearing held pursuant to this article.

REGULATION 12-6-520 (3) (c). Dealers, officers, directors or stockholders of corporations owning five per-cent or more, licensed as such, who are convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to Article 3, 4, or 5 of Title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, shall provide to the board written notice of such conviction within thirty days after receiving such conviction. The licensee shall provide complete information including copies of such conviction and pre-sentence reports within thirty days of the conviction.

(d) Defrauding any buyer, seller, powersports vehicle salesperson, or financial institution to the person's damage;

(e) Intentionally or negligently failing to perform any written agreement with any buyer or seller;

(f) Failing or refusing to furnish and keep in force a bond required under this part 5;

(g) Making a fraudulent or illegal sale, transaction, or repossession;

(h) Willfully misrepresenting, circumventing, concealing, or failing to disclose, through subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer;

REGULATION 12-6-520 (3) (h).

A copy of the completed contract form shall be given to the purchaser when signed by both parties. The year and make of the powersports vehicle along with miles or hours of operation (if known) shall be disclosed on the contract.

A powersports dealer shall disclose on the contract form when a powersports vehicle is known by the dealer to have sustained material damage such as complete replacement of the engine, drive train, chassis or when the vehicle was known to be a rental.

Addendum to Powersports vehicle sales contract

Year of Vehicle _____

Make _____

Miles (if applicable)

Hours (if known) _____

Used as a daily rental _____

(if known)

Disclosure

Yes

No

The selling dealer certifies that it has/has no knowledge that this powersports vehicle is known to have sustained any material damage such as complete replacement of the engine, drive train or chassis.

Dealer
Purchaser

- (i) Intentionally publishing or circulating advertising that is misleading or inaccurate in any material particular or that misrepresents a product sold or furnished by a licensed dealer;

REGULATION 12-6-520 (3) (i). Advertising shall be construed to be misleading or inaccurate in the following particulars:

Rule 1. Advertising a powersports vehicle which is not in operable condition unless specifically disclosed.

Rule 2. Advertising which would imply the dealer is going out of business when such is not the case.

Rule 3. Advertising a specific powersports vehicle for sale or lease with price or terms quoted, without fully identifying the vehicle as to year, make, model, if known, and dealer stock number. Such vehicle shall be willfully shown and sold at the advertised price and/or terms while such vehicle remains unsold or unleased, for a period of five days following the last date the ad was published, unless the ad states that the advertised price and terms are good only for a specific time and such time has elapsed. If a specific number of powersports vehicles are advertised, such vehicles must have been invoiced to the dealer.

Rule 4. Using a picture or photograph of a powersports vehicle in advertising when the picture or photograph is not the same make, year and equipment actually being offered for the price or terms advertised.

Rule 5. Advertising in such a manner which utilizes an asterisk or other reference symbols to contradict or materially change the meaning of any advertising statements.

Rule 6. Advertising used powersports vehicles to create the impression that they are new or using the word 'new' when advertising used powersports vehicles, such as "new, used powersports vehicles". Any powersports vehicle of the current model or the previous model year which is a used powersports vehicle shall be so identified in any advertisement for said powersports vehicle.

Rule 7. Advertising in any manner to imply that a purchaser will be receiving benefits of any existing loan on a powersports vehicle when no such benefit exists.

Rule 8. Advertising or making statements that are not true or that cannot or will not be honored. Advertising which creates the false impression that the purchaser will determine the terms, price or conditions of a sale, such as "write your own deal," "name your own price," "no reasonable offer refused," and "we will not be undersold." Advertising any item as "free" which is associated with or conditioned upon the negotiated sale of a powersports vehicle.

Rule 9. Advertising sales prices for used powersports vehicles which claim or imply a specific savings or discount without clearly and accurately documenting the basis for the savings or discount.

Rule 10. Advertising any reference to "dealer cost" or "invoice" price. Advertising the word "wholesale" in connection with the retail offering of powersports vehicles.

Rule 11. Advertising a specific trade-in amount or range of amounts without, in fact, offering such a trade-in amount and, failing to disclose or advertise the M.S.R.P., sale price, or capitalized cost of the powersports vehicle from which the trade-in will be deducted.

Rule 12. Advertising the price of a powersports vehicle without including all costs to the purchaser at the time of delivery, except sales tax, finance charges, cost of any required emissions test, and transportation costs, incurred after sale,

to deliver the powersports vehicle to the purchaser at the purchaser's request.

Rule 13. Advertising any specific discount or rebate on new powersports vehicles without the manufacturer's suggested retail price conspicuously stated in the ad.

Rule 14. Advertising any qualifying statement or disclosure which is not clear, conspicuous, and readable, and which is not adjacent to the offer or terms it qualifies, and in less than eight-point type.

Rule 15. Advertising any contest that offers to prospective participants the opportunity to receive or compete for gifts or prizes without such advertisement containing the words "no purchase or payment of any kind is necessary to enter or win this contest" in bold-faced type and at least ten-point type.

(j) Knowingly purchasing, selling, or otherwise acquiring or disposing of a stolen powersports vehicle;

(k) Engaging in the business for which the dealer is licensed without at all times maintaining a principal place of business as required by this part 5 during reasonable business hours;

REGULATION 12-6-520 (3) (k). All powersports vehicle dealers and all used powersports vehicle dealers must be open for business at least three (3) days per week for a continuous period of time not less than four (4) hours per day between the hours of 8 A.M. and 9 P.M.

Any powersports dealership open less than forty (40) hours a week must post a clear and legible sign on its place of business indicating the days and hours that it is open for business. In addition such powersports dealerships shall notify the board in writing of any subsequent change in such periods of time.

Any powersports dealership which will not be open for business for a period of at least two (2) weeks must post a clear and legible sign on its place of business indicating this fact as well as notifying the board in writing of such fact.

A powersports dealer's principal place of business shall be made available to inspection by the board or its agents and employees

at any reasonable time even if such time is outside the usual business hours posted by the dealer.

(l) Engaging in the business through employment of an unlicensed powersports vehicle salesperson;

(m) Willfully violating any state or federal law respecting commerce or powersports vehicles, or any lawful rule respecting commerce or powersports vehicles promulgated by any licensing or regulating authority pertaining to powersports vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or powersports vehicles;

(n) Representing or selling as a new and unused powersports vehicle any powersports vehicle that the dealer or salesperson knows is otherwise a used powersports vehicle;

(o) Committing a fraudulent insurance act pursuant to section 10-1-128, C.R.S.;

(p) Failing to give notice to a prospective buyer of the acceptance or rejection of a powersports vehicle purchase order agreement within a reasonable time period, as determined by the board, when the licensee is working with the prospective buyer on a finance sale or a consignment sale.

REGULATION 12-6-520 (3) (p). A powersports dealer shall give notice of rejection of financing to the prospective buyer within ten (10) calendar days from the date of the purchase order or agreement on a finance or consignment sale.

(3.5) A wholesaler's license may be denied, suspended, or revoked for the selling, leasing, or offering or attempting to negotiate the sale, lease, or exchange of an interest in motor vehicles to persons other than powersports vehicle dealers, used powersports vehicle dealers, or other wholesalers. (HB09-1026)(Effective 10-1-2009)

(4) The license of a powersports vehicle salesperson may be denied, revoked, or suspended on the following grounds:

(a) Material misstatement in an application for a license;

REGULATION 12-6-520 (4) (a). "Material misstatement" in an application for a salesperson license means any relevant false or misleading statement, omission, or misrepresentation regarding personal identification information, employment history, prior occupational licensing history, whether regarding

a license issued by the board or any other licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, plea of nolo contendere or a plea in a deferred judgment and sentence.

(b) Failure to comply with any provision of this part 5 or any rule promulgated by the board or executive director under this part 5;

(c) To engage in the business for which the licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as provided in this part 5;

(d) To intentionally publish or circulate an advertisement that is misleading or inaccurate in any material particular or that misrepresents a powersports vehicle product sold or attempted to be sold by the salesperson;

(e) Having indulged in any fraudulent business practice;

(f) Selling, offering, or attempting to negotiate the sale, exchange, or lease of powersports vehicles for a powersports vehicle dealer or used powersports vehicle dealer for which the salesperson is not licensed; except that negotiation with a powersports vehicle dealer or used powersports vehicle dealer for the sale, exchange, or lease of new and used powersports vehicles, by a salesperson compensated for the negotiation by a powersports vehicle dealer or used powersports vehicle dealer for which the salesperson is licensed shall not be grounds for denial, revocation, or suspension;

REGULATION 12-6-520 (4) (f). *Reissue of powersports salesperson licenses.*

1. Salespersons who change employment during their license year shall notify the Auto Industry Division, on the form prescribed by the board, of the identity of the new employer prior to commencing employment at the new dealership.

2. Upon the submission of the notification, acknowledged by the new employing dealer, the salesperson may begin working as a salesperson at the new employing dealership.

3. After receipt of notification, the Auto Industry Division shall issue a new license to the salesperson for the remainder of the license term with the new employing dealership.

4. Any salesperson who fails to provide timely notification may be subject to disciplinary action.

(g) Representing oneself as a salesperson for a powersports vehicle dealer when the salesperson is not so employed and licensed;

(h) Having been convicted of or pled nolo contendere to any felony or any crime pursuant to article 3, 4, or 5 of title 18, C.R.S., or any like crime pursuant to federal law or the law of another state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of the conviction in a hearing held pursuant to this article.

REGULATION 12-6-520 (4) (h). A powersports salesperson who is convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to article 3, 4, or 5 of title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, must give the board written notice of such conviction within thirty days after that conviction. The licensee shall provide complete information including copies of conviction and pre-sentence reports within thirty days of the conviction.

(i) Having knowingly purchased, sold, or otherwise acquired or disposed of a stolen powersports vehicle;

(j) Employing an unlicensed powersports vehicle salesperson;

(k) Defrauding any retail buyer to the person's damage;

(l) Representing or selling as a new and unused powersports vehicle a powersports vehicle that the salesperson knows is otherwise a used powersports vehicle;

(m) Willfully violating any state or federal law respecting commerce or powersports vehicles, or any lawful rule respecting commerce or powersports vehicles promulgated by any licensing or regulating authority pertaining to powersports vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or powersports vehicles;

(n) Improperly withholding, misappropriating, or converting to the salesperson's own use any money belonging to customers or other persons, received in the course of employment as a powersports vehicle salesperson.

(5) A license issued pursuant to this part 5 may be denied, revoked, or suspended if unfitness of the licensee or licensee applicant is shown in the following:

(a) The licensing character or record of the licensee or licensee applicant;

(b) The criminal character or record of the licensee or licensee applicant;

(c) The financial character or record of the licensee or licensee applicant;

(d) A Violation of any lawful order of the board.

REGULATION 12-6-520 (5).

(a) The board, in determining whether a licensee or license applicant has demonstrated unfitness of licensing character or record, will consider whether the licensee or license applicant or the licensee's or license applicant's partner, officer, director, or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, 1) has had a license fined, denied, suspended or revoked, 2) has been determined to have violated the licensing examination procedures of Regulation 12-6-504(1)(k); or 3) has had any complaints, civil judgments, injunctions, consent orders/decrees, or stipulations, arising from the operation of a business in this state or any other state, engaged in the sale, lease, or distribution of powersports vehicles, and, if so, the nature, severity, and extent of these legal matters. This regulation does not apply to shareholders of corporations, who own less than five per-cent that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended. (Effective 8/30/2010)

(b) The board, in determining whether a licensee or applicant has demonstrated unfitness of criminal character or record, will consider the nature and date of the convictions, parole or probation status, including whether the licensee or applicant has maintained satisfactory compliance, and/or restitution. A pattern of convictions which individually may not constitute grounds for denial or disciplinary action, may, taken together constitute unfitness.

(c) The board, in determining whether a licensee or applicant has demonstrated unfitness of financial character or record, will consider net worth, liquid assets including cash, lines of credit, marketable securities, credit reports, unpaid judgments and/or tax liens, delinquent debts, and bankruptcy status. Applications for a powersports vehicle dealer or used powersports vehicle license will be closely evaluated based on the factors herein and the applicant's concept of operation for the business to assess the potential for harm to retail customers.

(d) Failure to pay any fine imposed by the board, or the submission of a draft or check for the payment of any fee required by the board which is dishonored shall be deemed to demonstrate unfitness of financial character or record.

(6) (a) A license issued or applied for pursuant to this part 5 shall be revoked or denied if the licensee or applicant has been convicted of or pleaded no contest to any of the following offenses in this state or another jurisdiction during the previous ten years:

(I) A felony in violation of article 3, 4, or 5 of title 18, C.R.S., or any similar crime under federal law or the law of another state; or

(II) A crime involving salvage fraud or the defrauding of a retail consumer in a powersports vehicle sale or lease transaction.

(b) A certified copy of a judgment of conviction by a court of competent jurisdiction of an offense under subparagraph (I) of paragraph (a) of this subsection (6) is conclusive evidence of the conviction in any hearing held pursuant to this article.

12-6-521. Procedure for denial, suspension, or revocation of license - judicial review.

(1) The denial, suspension, or revocation of licenses issued under this part 5 shall be in accordance with the provisions of sections 24-4-104 and 24-4-105, C.R.S.; except that the discovery available under rule 26 (b) (2) of the Colorado rules of civil procedure is available in any proceeding.

(2) The board shall appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to conduct any hearing concerning the licensing or discipline of a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, powersports vehicle manufacturer, powersports vehicle manufacturer representative, or powersports vehicle distributor; except that the board may, upon a unanimous vote of the members present when the vote is taken, conduct the hearing in lieu of appointing an administrative law judge. (HB09-1026)(Effective 10-1-2009)

REGULATION 12-6-521 (2). *Hearing procedures.*

(I) The board president will normally preside at hearings before the full board, or in the president's absence, such board member as may be designated by a majority of the board members present, may preside and conduct the hearing.

(II) The presiding officer shall rule on all evidentiary and procedural matters during the course of the hearing. Rulings on motions prior to or after the hearing, and the findings, conclusions, and order shall be determined by a majority of board members present. In the event a motion is filed requesting relief from a board order, the effects of which will occur prior to the next scheduled meeting of the board, the board president may rule on said motion, and the executive secretary shall issue the written order on behalf of the board. In the absence of the president, the first vice-president or second vice-president respectively may rule on any motion.

(III) An original and 10 copies of all documents intended to be introduced into evidence at hearings before the full board shall be provided for distribution to the board and the opposing party. Respondent's and applicant's exhibits shall be marked alphabetically. The Department of Revenue's exhibits shall be marked numerically.

(IV) License applicants shall have the burden of proof to demonstrate to the board that they meet all the qualifications for licensure. If denied a license by the board, applicants shall have the burden of proof to demonstrate that the specific reasons given in the notice of denial should not preclude the issuance of a license. Salesperson license applicants shall provide written proof that the employing dealer is aware of the grounds giving rise to the initial license denial, and, that said dealer shall be responsible for the actions of the salesperson in the course of employment in the event that a restricted license is approved.

(V) Motions shall be served on the board through its executive secretary with proof of service on the opposing party. Except in the most extraordinary circumstances, motions shall be filed not later than 30 calendar days prior to the hearing. A response to any motion shall be filed within 5 business days of the filing of the initial motion. Failure to timely comply may result in the motion being denied. Motions will be considered by the

board at its next opportunity. The pendency of motions shall not be cause to continue a scheduled hearing.

(VI) Continuances will not be granted unless timely filed and with good cause shown. Unreasonable delay in securing legal counsel or failing to timely exercise discovery rights may not constitute "good cause" except in the most extraordinary circumstances.

(3)(a) The board shall assign a hearing concerning the licensing or discipline of a powersports vehicle salesperson to the executive director, who shall appoint an officer to conduct a hearing.

(b) Hearings conducted before an administrative law judge shall be in accordance with the rules of procedure of the office of administrative courts. Hearings conducted before an officer appointed by the executive director shall be in accordance with the rules of procedure established by the executive director.

(4) The board may summarily suspend a licensee required to post a bond under this article if such licensee does not have a bond in full force and effect as required by this article. The suspension shall become effective upon the earlier of the licensee receiving notice of the suspension or within three days after the notice of suspension is mailed to a licensee's last known address on file with the board. The notice may be effected by certified mail or personal delivery.

(5) The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review of the board. The proceedings shall be conducted in accordance with section 24-4-106 (11), C.R.S.

12-6-522. Sales activity following license denial, suspension, or revocation - unlawful act - penalty. (1) (a) It shall be unlawful and a violation of this part 5 for any person whose wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license has been denied, suspended, or revoked to exercise the privileges of the license that was denied, suspended, or revoked. (HB09-1026)(Effective 10-1-2009)

(b) A violation of paragraph (a) of this subsection (1) shall be punishable in accordance with section 12-6-527; except that a second or subsequent violation of said paragraph (a) shall be a class 6 felony.

(c) In any trial for a violation of paragraph (a) of this subsection (1):

(I) A duly authenticated copy of the board's order of denial, suspension, or revocation shall constitute prima facie evidence of the denial, suspension, or revocation;

(II) A duly authenticated invoice, buyer's order, or other customary, written sales or purchase document or instrument proven to be signed by the defendant and indicating the defendant's role in the purchase or sale of a powersports vehicle at a retail or wholesale powersports vehicle sales location shall constitute prima facie evidence of the defendant's exercise of a privilege of licensure; (HB09-1026)(Effective 10-1-2009)

(III) It shall be an affirmative defense that the defendant bought or sold a powersports vehicle that was, at all relevant times, intended for the defendant's own use and not bought or sold for the purpose of profit or gain; and

(IV) The fact that the defendant has a powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license, or another license to buy and sell powersports vehicles, that is issued by a state or jurisdiction other than Colorado shall not constitute a defense.

(2) Upon the defendant's conviction by entry of a plea of guilty or nolo contendere or judgment or verdict of guilt in connection with a violation of paragraph (a) of subsection (1) of this section or of section 12-6-523 (2) or 42-6-142 (1), C.R.S., the court shall immediately give the executive director written notice of the conviction. In addition, the court shall forward to the executive director copies of documentation of any conviction on a lesser included offense and any amended charge, plea bargain, deferred prosecution, deferred sentence, or deferred judgment in connection with the original charge.

(3) Upon receiving notice of a conviction or other disposition pursuant to subsection (2) of this section, the executive director or his or her designee shall forward the notice to the motor vehicle dealer board, which shall immediately examine its files to determine whether the defendant's license was denied, suspended, or revoked at the time of the offense. If in fact the defendant's license was denied, suspended, or revoked at the time of the offense, the board shall:

(a) Not issue or reinstate any license to the defendant until one year after the time the defendant would otherwise have been eligible to receive a new or reinstated license; and

(b) Revoke or suspend any other licenses held by the defendant until at least one year after the date of the conviction or other disposition.

12-6-523. Unlawful acts. (1) It shall be unlawful and a violation of this part 5 for any powersports vehicle manufacturer, distributor, or manufacturer representative:

(a) To willfully fail to cause to not be performed any written warranties made with respect to a powersports vehicle or parts thereof;

(b) To coerce or attempt to coerce any powersports vehicle dealer to perform or allow to be performed an act that could be financially detrimental to the dealer or that would impair the dealer's goodwill or to enter into an agreement with a powersports vehicle manufacturer or distributor that would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew a franchise between a powersports vehicle manufacturer or distributor and the dealer;

(c) To coerce or attempt to coerce any powersports vehicle dealer to accept delivery of a powersports vehicle, parts or accessories thereof, or any commodities or services that have not been ordered by the dealer;

(d) **(I)** To cancel or cause to be canceled, directly or indirectly, without just cause, the franchise of a powersports vehicle dealer, and the nonrenewal of a franchise or selling agreement without just cause is a violation of this paragraph (d) and shall constitute an unfair cancellation;

(II) As used in this paragraph (d), "just cause" shall be determined in the context of all circumstances surrounding the cancellation or nonrenewal, including but not limited to:

(A) The amount of business transacted by the powersports vehicle dealer;

(B) The investments necessarily made and obligations incurred by the powersports vehicle dealer, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of the investments and obligations;

(C) The potential for harm to consumers as a result of disruption of the business of the powersports vehicle dealer;

(D) The powersports vehicle dealer's failure to provide adequate service of facilities, equipment, parts, and qualified service personnel;

(E) The powersports vehicle dealer's failure to perform warranty work on behalf of the powersports vehicle manufacturer, subject to reimbursement by the powersports vehicle manufacturer; and

(F) The powersports vehicle dealer's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable and material.

(III) The following conduct by a powersports vehicle dealer shall constitute just cause for termination without consideration of other factors:

(A) Conviction of, or a plea of guilty or nolo contendere to, a felony;

(B) A continuing pattern of fraudulent conduct against the powersports vehicle manufacturer or consumers; or

(C) Continuing failure to operate for ten days or longer.

(e) To withhold, reduce, or delay unreasonably or without just cause delivery of powersports vehicles, powersports vehicle parts and accessories, commodities, or moneys due powersports vehicle dealers for warranty work done by any powersports vehicle dealer;

(f) To withhold, reduce, or delay unreasonably or without just cause services contracted for by powersports vehicle dealers;

(g) To coerce any powersports vehicle dealer to provide installment financing with a specified financial institution;

(h) To violate any duty imposed by, or fail to comply with, any provision of section 12-6-524, 12-6-525, or 12-6-526;

(i) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or to refuse to approve, unreasonably, the change in executive management of the dealership; except that nothing in this part 5 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the powersports vehicle manufacturer or distributor;

(i) (I) To fail to provide to the powersports vehicle dealer, within twenty days after receipt of a notice of intent from a powersports vehicle dealer, the list of documents and information necessary to approve the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or the change in executive management of the dealership; (SB09-091)(Effective 7-1-2009)

(II) To fail to confirm within twenty days after receipt of all documents and information listed in subparagraph (I) of this paragraph (i) that such documentation and information has been received; (SB09-091)(Effective 7-1-2009)

(III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer within sixty days after the manufacturer has received all documents and information necessary to approve the sale or transfer of ownership, or to refuse to approve, unreasonably, the change in executive management of the dealership within sixty days after the manufacturer has received all information necessary to approve the change in management; except that nothing in this part 5 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the powersports vehicle manufacturer or distributor unless the manufacturer or distributor fails to send notice of the disapproval within sixty days after receiving all documents and information necessary to approve the sale or transfer of ownership; or (SB09-091)(Effective 7-1-2009)

(IV) To condition the sale, transfer, relocation, or renewal of a franchise agreement or to condition sales, services, parts, or finance incentives upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of such conditions by the dealer shall not constitute a violation; (SB09-091)(Effective 7-1-2009)

(j) (I) To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of manufacturing capacity, shortage of materials, freight embargo, or other cause over which the powersports vehicle manufacturer has no control; or

(II) To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a prerequisite to receiving any particular model of that same line-make, which shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer;

(k) To require, coerce, or attempt to coerce any powersports vehicle dealer to refrain from participation in the management of, investment in, or acquisition of another line-make of new powersports vehicles or related products; except that this paragraph (k) shall not apply unless the powersports vehicle dealer:

(I) Maintains a reasonable line of credit for each make or line of new powersports vehicle; (SB09-091)(Effective 7-1-2009)

(II) Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the powersports vehicle manufacturer, but "reasonable facilities requirements" shall not include a requirement that a powersports vehicle dealer establish or maintain exclusive facilities, personnel, or display space; and (SB09-091)(Effective 7-1-2009)

(III) Provides written notice to the manufacturer, distributor, or manufacturer's representative, no less than ninety days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new powersports vehicles or related products; (SB09-091)(Effective 7-1-2009)

(I) To fail to pay to a powersports vehicle dealer, within ninety days after the termination, cancellation, or non-renewal of a franchise, all of the following:

(I) The dealer cost, plus any charges made by the powersports vehicle manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the powersports vehicle dealer by the powersports vehicle manufacturer, of unused, undamaged, and unsold powersports vehicles in the powersports vehicle dealer's inventory that were acquired from the powersports vehicle manufacturer or from another powersports vehicle dealer of the same line-make in the ordinary course of business within the previous twelve months; (SB09-091)(Effective 7-1-2009)

(II) The dealer cost, less all allowances paid or credited to the powersports vehicle dealer by the powersports vehicle manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the powersports vehicle manufacturer's current parts catalog;

(III) The fair market value of each undamaged sign owned by the powersports vehicle dealer and bearing a common name, trade name, or trademark of the powersports vehicle manufacturer if acquisition of the sign was required by the powersports vehicle manufacturer;

(IV) The fair market value of all special tools and equipment that were acquired from the powersports vehicle manufacturer or from sources approved and required by the powersports vehicle manufacturer and that are in good and usable condition, excluding normal wear and tear; and

(V) The cost of transporting, handling, packing, and loading the powersports vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this paragraph (I).

(m) To require, coerce, or attempt to coerce a powersports vehicle dealer to close or change the location of the powersports vehicle dealer, or to make any substantial alterations to the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of powersports vehicles so as to justify the changes, in light of the current market and economic conditions;

(n) To authorize or permit a person to perform warranty service repairs on powersports vehicles unless the person is:

(I) A powersports vehicle dealer with whom the powersports vehicle manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's powersports vehicles; or

(II) A person or government entity that has purchased new powersports vehicles pursuant to a powersports vehicle manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by the person or entity;

(o) To require, coerce, or attempt to coerce a powersports vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this article except in settlement of a bona fide dispute.

(p) To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards; (SB09-091)(Effective 7-1-2009)

(q) To fail to make practically available an incentive, rebate, bonus, or other similar benefit to a powersports vehicle dealer that is offered to another powersports vehicle dealer of the same line-make within this state; (SB09-091)(Effective 7-1-2009)

(r) To fail to pay to a powersports vehicle dealer: (SB09-091)(Effective 7-1-2009)

(I) Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to

exceed one year; except that: (SB09-091)(Effective 7-1-2009)

(A) If the powersports vehicle dealer owns the facilities, the value of renting such facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination; (SB09-091)(Effective 7-1-2009)

(B) Nothing in this subparagraph (i) shall be construed to limit the application of paragraph (d) of this subsection (1); (SB09-091)(Effective 7-1-2009)

(II) Within ninety days after the termination, elimination, or cessation of a line-make, the fair market value of the powersports vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under subparagraphs (I) to (V) of paragraph (1) of this subsection (1); and (SB09-091)(Effective 7-1-2009)

(s) To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a powersports vehicle being sold at the facility. (SB09-091)(Effective 7-1-2009)

(2) It is unlawful for a person to act as a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, powersports vehicle manufacturer, powersports vehicle distributor, powersports vehicle manufacturer representative, or powersports vehicle salesperson unless the person has been duly licensed under the provisions of this part 5. (HB09-1026)(Effective 10-1-2009)

12-6-524. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules.

(1) No powersports vehicle manufacturer shall establish an additional new powersports vehicle dealer, reopen a previously existing powersports vehicle dealer, or relocate an existing powersports vehicle dealer without first providing at least sixty days' notice to all of its franchised dealers within whose relevant market area the new, reopened, or relocated dealer would be located. The notice shall state:

(a) The specific location at which the additional, reopened, or relocated powersports vehicle dealer will be established;

(b) The date on or after which the powersports vehicle manufacturer intends to be engaged in business with the additional, reopened, or relocated powersports vehicle dealer at the proposed location;

(c) The identity of all powersports vehicle dealers who are franchised to sell the same line-make of vehicles with licensed locations in the relevant market area where the additional, reopened, or relocated powersports vehicle dealer is proposed to be located; and

(d) The names and addresses of the dealer and principal investors in the proposed additional, reopened, or relocated powersports vehicle dealer.

(1.5) A powersports vehicle manufacturer shall reasonably approve or disapprove of a powersports vehicle dealer facility initial site location or relocation request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised powersports vehicle dealers, whichever is later, but not to exceed one hundred days. (SB09-091)(Effective 7-1-2009)

(2) Subsection (1) of this section shall not apply to:

(a) The relocation of an existing dealer within two miles of its current location; or

(b) The establishment of a replacement dealer, within two years, either at the former location or within two miles of the former location.

(3) As used in this section:

(a) "Powersports manufacturer" means a powersports vehicle manufacturer, distributor, or manufacturer representative.

(b) "Relevant market area" means the greater of the following:

(I) The geographic area of responsibility defined in the franchise agreement of an existing dealer; or

(II) The geographic area within a radius of five miles of any existing dealer of the same line-make of powersports vehicle that is located in a county with a population of more

than one hundred fifty thousand or within a radius of ten miles of an existing dealer of the same line-make of vehicles that is located in a county with a population of one hundred fifty thousand or less.

(4) (a) If a licensee brings an action or proceeding before the executive director or a court pursuant to this part 5, the powersports vehicle manufacturer shall have the burden of proof on the following issues:

(I) The size and permanency of investment and obligations incurred by the existing powersports vehicle dealers of the same line-make located in the relevant market area;

(II) Growth or decline in population in the relevant market area;

(III) The effect on the consuming public in the relevant market area and whether the opening of the proposed additional, reopened, or relocated dealer is injurious or beneficial to the public welfare; and

(IV) Whether the powersports vehicle dealers of the same line-make in the relevant market area are providing adequate and convenient customer care for powersports vehicles of the same line-make in the relevant market area, including but not limited to the adequacy of sales and service facilities, equipment, parts, and qualified service personnel.

(b) **(I)** In addition to the powers specified in section 12-6-505, the executive director has jurisdiction to resolve actions or proceedings brought before the executive director pursuant to this part 5 that allege a violation of this part 5 or rules promulgated pursuant to this part 5. The executive director may promulgate rules to facilitate the administration of the actions or proceedings, including provisions specifying procedures for the executive director or the executive director's designee to:

(A) Conduct an investigation pursuant to section 12-6-505 (1) (e) and (1) (f) of an alleged violation of this part 5 or rules promulgated pursuant to this part 5, including issuance of a notice of violation;

(B) Hold a hearing regarding the alleged violation to be held pursuant to section 24-4-105, C.R.S.;

(C) Issue an order, including a cease and desist order issued pursuant to section 12-6-505 (1) (h) to resolve the notice of violation; and

(D) Impose a fine pursuant to section 12-6-505 (1) (h) (III).

- (II) The court of appeals has initial jurisdiction to review all final actions and orders that are subject to judicial review of the executive director made pursuant to this subsection (4). The proceedings shall be conducted in accordance with section 24-4-106, C.R.S.

12-6-525. Independent control of dealer - definitions.

(1) Except as otherwise provided in this section, no powersports vehicle manufacturer shall own, operate, or control any powersports vehicle dealer or used powersports vehicle dealer in Colorado. (SB09-091)(Effective 7-1-2009)

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

(a) Operation of a powersports vehicle dealer for a temporary period, not to exceed twelve months, during the transition from one owner or operator to another independent owner or operator; except that the executive director may extend the period, not to exceed twenty-four months, upon showing the manufacturer or distributor of the need to operate the dealership for such time to achieve a transition from an owner or operator to another independent third-party owner or operator; (SB09-091)(Effective 7-1-2009)

(b) Ownership or control of a powersports vehicle dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;

(c) Participation in the ownership of the powersports vehicle dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years; and

(d) Operation of a powersports vehicle dealer if the powersports vehicle manufacturer has no other franchised dealers of the same line-make in this state.

(3) As used in this section:

(a) "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a powersports vehicle manufacturer and a powersports vehicle dealer under a franchise agreement.

(b) "Operate" means to directly or indirectly manage a powersports vehicle dealer.

(c) "Own" means to hold any beneficial ownership interest of one percent or more class of equity interest in a powersports vehicle dealer, whether as a shareholder, partner, limited liability company member, or otherwise. To "hold" an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.

(d) "Powersports vehicle manufacturer" means a powersports vehicle manufacturer, distributor, or manufacturer representative.

12-6-526. Successor under existing franchise agreement - duties of powersports vehicle manufacturer. (1) If a licensed powersports vehicle dealer under franchise by a powersports vehicle manufacturer dies or becomes incapacitated, the powersports vehicle manufacturer shall act in good faith to allow a successor, which may include a family member, designated by the deceased or incapacitated powersports vehicle dealer to succeed to ownership and operation of the dealer under the existing franchise agreement if:

(a) Within ninety days after the powersports vehicle dealer's death or incapacity, the designated successor gives the powersports vehicle manufacturer written notice of an intent to succeed to the rights of the deceased or incapacitated powersports vehicle dealer in the franchise agreement;

(b) The designated successor agrees to be bound by all of the terms and conditions of the existing franchise agreement; and

(c) The designated successor meets the criteria generally applied by the powersports vehicle manufacturer in qualifying powersports vehicle dealers.

(2) A powersports vehicle manufacturer may refuse to honor the existing franchise agreement with the designated successor only for good cause. The powersports vehicle manufacturer may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored, and the designated successor shall supply the data promptly upon request.

(3) (a) If a powersports vehicle manufacturer believes that good cause exists for refusing to honor the requested succession, the powersports vehicle manufacturer shall send the designated successor, by certified or overnight mail, notice of its refusal to approve the succession within sixty days after the later of:

(I) Receipt of the notice of the designated successor's intent to succeed the powersports vehicle dealer in the ownership and operation of the dealer; or

(II) The receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to paragraph (a) of this subsection (3) shall be considered approval of the designated successor, and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day of the notice period specified in said paragraph (a).

(c) If the powersports vehicle manufacturer gives notice of refusal to approve the succession, the notice shall state the specific grounds for the refusal and shall state that the franchise agreement shall be discontinued not less than ninety days after the date the notice of refusal is served unless the proposed successor files an action in the district court to enjoin the action.

(4) This section shall not be construed to prohibit a powersports vehicle dealer from designating a person as the successor in advance, by written instrument filed with the powersports vehicle manufacturer. If the powersports vehicle dealer files the instrument, that instrument governs the succession rights to the management and operation of the dealer subject to the designated successor satisfying the powersports vehicle manufacturer's qualification requirements as described in this section.

12-6-526.5. Audit reimbursement limitations - dealer claims.

(SB09-091) (Effective 7-1-2009)

(1) (a) A manufacturer, distributor, or manufacturer representative shall have the right to audit warranty, sales, or incentive claims of a powersports vehicle dealer for fifteen months after the date the claim was submitted.

(b) A manufacturer, distributor, or manufacturer representative shall not require

documentation for warranty, sales, or incentive claims or audit warranty, sales, or

incentive claims of a powersports vehicle dealer more than twenty-four months after

the date the claim was submitted, nor shall the manufacturer require a charge back,

reimbursement, or credit against a future transaction arising out of an audit or request

for documentation arising more than fifteen months after the date the claim was submitted.

(2) The powersports vehicle dealer shall have fifteen months after making a sale or providing service to submit warranty, sales, or incentive claims to the manufacturer, distributor, or manufacturer's representative.

(3) Subsection (1) of this section shall not limit any action for fraud instituted in a court of competent jurisdiction.

(4) A powersports vehicle dealer may request a determination from the executive director, within thirty days, that a charge back, reimbursement, or credit required violates subsection (1) of this section. if a determination is requested within the thirty-day period, then the charge back, reimbursement, or credit shall be stayed pending the decision of the executive director. if the executive director determines after a hearing that the charge back, reimbursement, or credit violates subsection (1) of this section, the charge back, reimbursement, or credit shall be void.

12-6-526.7. reimbursement for disapproving sale.

A manufacturer or distributor shall pay reasonable attorney fees, not to exceed the usual and customary fees charged for the transfer of a franchise, and reasonable expenses that are incurred by the proposed owner or transferee before the manufacturer or distributor exercised its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or the transfer of assets. payment of attorney fees and expenses is not required if the claimant has failed to submit an accounting of attorney fees and expenses within twenty days after the receipt of the manufacturer's or dealer's written request for an accounting. an expense accounting may be requested by the manufacturer or distributor before exercising its right of first refusal. (SB09-091)
(Effective 7-1-2009)

12-6-527. Penalty. A person who willfully violates this part 5 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.; except that a person who violates section 12-6-523 (2) commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars for each separate offense, or if the violator is a corporation, the fine shall be not less than five hundred dollars nor more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars.

12-6-528. Fines - disposition - unlicensed sales. Any fine collected for a violation of section 12-6-523 (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation.

12-6-529. Drafts not honored for payment - penalties. (1) If a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer issues a draft or check to a wholesaler, powersports vehicle dealer or used powersports vehicle dealer and fails to honor the draft or check, then the license of the licensee shall be subject to suspension pursuant to section 12-6-520. The license suspension shall be effective upon the date of a final decision against the licensee. A licensee whose license has been suspended pursuant to this subsection (1) shall not be eligible for reinstatement of the license and shall not be eligible to apply for another license issued under this part 5 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full. (HB09-1026)(Effective 10-1-2009)

(2) A wholesaler, powersports vehicle dealer, or used powersports vehicle dealer that issues a draft or check to a wholesaler, powersports vehicle dealer or used powersports vehicle dealer and who fails to honor the draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation. (HB09-1026)(Effective 10-1-2009)

12-6-530. Right of action for loss. (1) A person shall have a right of action against the dealer, the dealer's salespersons, and the sureties upon their respective bonds if the person suffers loss or damage by reason of fraud practiced on the person or fraudulent representation made to the person by a licensed powersports vehicle dealer or a licensed used powersports vehicle dealer, or one of the dealer's salespersons acting on the dealer's behalf or within the scope of the employment, or suffers loss or damage by reason of the violation by the dealer or salesperson of any of the provisions of this part 5 that are designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of a license. The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson shall not be limited to the amount of their respective bonds.

(2) If a person suffers any loss or damage by reason of any unlawful act under section 12-6-523 (1) (a), the person shall have a right of action against the powersports vehicle manufacturer, distributor, or manufacturer representative. In a court action wherein a powersports vehicle manufacturer, distributor, or manufacturer representative has been found liable in damages to any person under this part 5, the amount of damages so determined shall be trebled and shall be recoverable by the person so damaged. Any person so damaged shall also be entitled to recover reasonable attorney fees.

(3) If a licensee suffers loss or damage by reason of an unlawful act under section 12-6-523 (1), the licensee shall have a right of action against the powersports vehicle manufacturer, distributor, or manufacturer representative. In a court action wherein a powersports vehicle manufacturer, distributor, or manufacturer representative has been found liable in damages to a licensee under this part 5, the licensee so damaged shall also be entitled to recover reasonable attorney fees.

12-6-531. Contract disputes - venue - choice of law. (1) In the event of a dispute between a powersports vehicle dealer and a powersports vehicle manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

(a) At the option of the powersports vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and

(b) Colorado law shall govern, both substantively and procedurally.

12-6-532. Advertisement - inclusion of dealer name. No powersports vehicle dealer or used powersports vehicle dealer or an agent of a dealer shall advertise an offer for the sale, lease, or purchase of a powersports vehicle that creates the false impression that the vehicle is being offered by a private party or that does not contain the name of the dealer or the word "dealer" or, if the name is contained in the offer and does not clearly reflect that the business is a dealer, both the name of the dealer and the word "dealer".

12-6-533. Repeal of part. This part 5 is repealed, effective July 1, 2017. Prior to the repeal, the functions of the motor vehicle dealer board and the executive director under this part 5, including licensing, shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 5. 12-6-111 (1), Colorado Revised Statutes, is amended to read:

12-6-111. Bond of licensee. (1) Before any motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or used motor vehicle dealer's license shall be issued by the board through the executive director to any applicant therefor, the said applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or a good and sufficient bond with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that said applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this part 1 that are designated by the board by rule in the conduct of the business for which such applicant is licensed. A motor vehicle dealer or used motor vehicle dealer shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if such dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 12-6-512.

SECTION 6. 12-6-112 (1), Colorado Revised Statutes, is amended to read:

12-6-112. Motor vehicle salesperson's bond. (1) Before any motor vehicle salesperson's license is issued by the board through the executive director to any applicant therefor, the said applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or a good and sufficient bond in the amount of five thousand dollars with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that said applicant shall perform in good faith as a motor vehicle salesperson without fraud or fraudulent representation and without the violation of any of the provisions of this part 1 that are designated by the board by rule. A motor vehicle salesperson shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if such dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 12-6-513.

SECTION 7. 12-6-113, Colorado Revised Statutes, is amended to read:

12-6-113. Testing licensees. Persons applying for a motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or motor vehicle salesperson's license under this part 1 shall be examined for their knowledge of the motor vehicle laws of the state of Colorado and the rules promulgated pursuant to this part 1. If the applicant is a corporation, the managing officer shall take such examination, and, if the applicant is a partnership, all the general partners shall take such examination. No license shall be issued except upon successful passing of the examination. This section shall not apply to a powersports vehicle dealer, used powersports vehicle dealer, or powersports salesperson licensed pursuant to part 5 of this article.

Excerpt from THE FEDERAL TRADE COMMISSIONS USED MOTOR VEHICLE TRADE REGULATION RULE

16 C.F.R. § 455.1 General duties of a used vehicle dealer; definitions.

(a) It is a deceptive act or practice for any used vehicle dealer, when that dealer sells or offers for sale a used vehicle in or affecting commerce as *commerce* is defined in the Federal Trade Commission Act:

- (1) To misrepresent the mechanical condition of a used vehicle;
- (2) To misrepresent the terms of any warranty offered in connection with the sale of a used vehicle; and
- (3) To represent that a used vehicle is sold with a warranty when the vehicle is sold without any warranty.

(b) It is an unfair act or practice for any used vehicle dealer, when that dealer sells or offers for sale a used vehicle in or affecting commerce as *commerce* is defined in the Federal Trade Commission Act:

- (1) To fail to disclose, prior to sale, that a used vehicle is sold without any warranty; and
- (2) To fail to make available, prior to sale, the terms of any written warranty offered in connection with the sale of a used vehicle.

(c) The Commission has adopted this Rule in order to prevent the unfair and deceptive acts or practices defined in paragraphs (a) and (b). It is a violation of this Rule for any used vehicle dealer to fail to comply with the requirements set forth in §§455.2 through 455.5 of this part. If a used vehicle dealer complies with the requirements of §§455.2 through 455.5 of this part, the dealer does not violate this Rule.

16 C.F.R § 455.2 Consumer sales—window form.

(a) *General duty.* Before you offer a used vehicle for sale to a consumer, you must prepare, fill in as applicable and display on that vehicle a “Buyers Guide” as required by this Rule.

(1) The Buyers Guide shall be displayed prominently and conspicuously in any location on a vehicle and in such a fashion that both sides are readily readable. You may remove the form temporarily from the vehicle during any test drive, but you must return it as soon as the test drive is over.

(2) The capitalization, punctuation and wording of all items, headings, and text on the form must be exactly as required by this Rule. The entire form must be printed in 100% black ink on a

white stock no smaller than 11 inches high by 7 1/4 inches wide in the type styles, sizes and format indicated.

§ 455.3 Window form.

(a) *Form given to buyer.* Give the buyer of a used vehicle sold by you the window form displayed under §455.2 containing all of the disclosures required by the Rule and reflecting the warranty coverage agreed upon. If you prefer, you may give the buyer a copy of the original, so long as that copy accurately reflects all of the disclosures required by the Rule and the warranty coverage agreed upon.

(b) *Incorporated into contract.* The information on the final version of the window form is incorporated into the contract of sale for each used vehicle you sell to a consumer. Information on the window form overrides any contrary provisions in the contract of sale. To inform the consumer of these facts, include the following language conspicuously in each consumer contract of sale:

The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

§ 455.5 Spanish language sales.

If you conduct a sale in Spanish, the window form required by §455.2 and the contract disclosures required by §455.3 must be in that language. You may display on a vehicle both an English language window form and a Spanish language translation of that form.

Link to 16 C.F.R. 455

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?type=simple;c=ecfr;cc=ecfr;sid=e6c06a668325c941e7ae36940cac821a;idno=16;region=DIV1;q1=455;rgn=div5;view=text;node=16%3A1.0.1.4.57>

Excerpt from the General Instructions for IRS Form 8300
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Who must file. Each person engaged in a trade or business who, in the course of that trade or business, receives more than \$10,000 in cash in one transaction or in two or more related transactions, must file Form 8300. Any transactions conducted between a payer (or its agent) and the recipient in a 24-hour period are related transactions.

Transactions are considered related even if they occur over a period of more than 24 hours if the recipient knows, or has reason to know, that each transaction is one of a series of connected transactions.

When to file. File Form 8300 by the 15th day after the date the cash was received. If that date falls on a Saturday, Sunday, or legal holiday, file the form on the next business day.

Keep a copy of each Form 8300 for 5 years from the date you file it.

Statement to be provided. You must give a written or electronic statement to each person named on a required Form 8300 on or before January 31 of the year following the calendar year in which the cash is received. The statement must show the name, telephone number, and address of the information contact for the business, the aggregate amount of reportable cash received, and that the information was furnished to the IRS.

Keep a copy of the statement for your records.

Multiple payments. If you receive more than one cash payment for a single transaction or for related transactions, you must report the multiple payments any time you receive a total amount that exceeds \$10,000 within any 12-month period. Submit the report within 15 days of the date you receive the payment that Taxpayer identification number (TIN).

You must furnish the correct TIN of the person or persons from whom you receive the cash and, if applicable, the person or persons on whose behalf the transaction is being conducted. You may be subject to penalties for an incorrect or missing TIN.

Penalties. You may be subject to penalties if you fail to file a correct and complete Form 8300 on time and you cannot show that the failure was due to reasonable cause. You may also be subject to penalties if you fail to furnish timely a correct and complete statement to each person named in a required report. A minimum penalty of \$25,000 may be imposed if the failure is due to an intentional or willful disregard of the cash reporting requirements.

Link To IRS Form 8300 Instructions

<http://www.irs.gov/businesses/small/article/0,,id=148857,00.html>

Excerpt from Regulation Z

12 C.F.R. § 226.1 Authority, purpose, coverage, organization, enforcement, and liability.

(a) *Authority.* This regulation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*).

This regulation also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Pub. L. 100–86, 101 Stat. 552). Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB No. 7100–0199.

(b) *Purpose.* The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The regulation also gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not generally govern charges for consumer credit, except that several provisions in Subpart G set forth special rules addressing certain charges applicable to credit card accounts under an open-end (not home-secured) consumer credit plan. The regulation requires a maximum interest rate to be stated in variable-rate contracts secured by the consumer's dwelling. It also imposes limitations on home-equity plans that are subject to the requirements of §226.5b and mortgages that are subject to the requirements of §226.32. The regulation prohibits certain acts or practices in connection with credit secured by a consumer's principal dwelling. The regulation also regulates certain practices of creditors who extend private education loans as defined in §226.46(b)(5).

SUBPART C - CLOSED-END CREDIT SALES

12 C.F.R § 226.24 Advertising.

(a) *Actually available terms.* If an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor.

(b) *Clear and conspicuous standard.* Disclosures required by this section shall be made clearly and conspicuously.

(c) *Advertisement of rate of finance charge.* If an advertisement states a rate of finance charge, it shall state the rate as an “annual percentage rate,” using that term. If the annual percentage rate may be increased after consummation, the advertisement shall state that fact. If an advertisement is for credit not secured by a dwelling, the advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate. If an advertisement is for credit secured by a dwelling, the advertisement shall not state any other rate, except that a simple annual rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(d) *Advertisement of terms that require additional disclosures —(1) Triggering terms.* If any of the following terms is set forth in an advertisement, the advertisement shall meet the requirements of paragraph (d)(2) of this section:

(i) The amount or percentage of any downpayment.

(ii) The number of payments or period of repayment.

(iii) The amount of any payment.

(iv) The amount of any finance charge.

(2) *Additional terms.* An advertisement stating any of the terms in paragraph (d)(1) of this section shall state the following terms,⁴⁹ as applicable (an example of one or more typical extensions of credit with a statement of all the terms applicable to each may be used):

⁴⁹ [Reserved]

(i) The amount or percentage of the downpayment.

(ii) The terms of repayment, which reflect the repayment obligations over the full term of the loan, including any balloon payment.

(iii) The “annual percentage rate,” using that term, and, if the rate may be increased after consummation, that fact.

(e) *Catalogs or other multiple-page advertisements; electronic advertisements* —(1) If a catalog or other multiple-page advertisement, or an electronic advertisement (such as an advertisement appearing on an Internet Web site), gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by paragraph (d)(2) of this section, it shall be considered a single advertisement if—

(i) The table or schedule is clearly and conspicuously set forth; and

(ii) Any statement of the credit terms in paragraph (d)(1) of this section appearing anywhere else in the catalog or advertisement clearly refers to the page or location where the table or schedule begins.

(2) A catalog or other multiple-page advertisement or an electronic advertisement (such as an advertisement appearing on an Internet Web site) complies with paragraph (d)(2) of this section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

Link to 12 C.F.R. 226

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=4bc8c0507c621c0af320a09b43b55486&rgn=div5&view=text&node=12:3.0.1.1.7&idno=12#PartTop>

Excerpt from Regulation M

12 C.F.R. § 213.1 Authority, scope, purpose, and enforcement.

(a) *Authority.* The regulation in this part, known as Regulation M, is issued by the Board of Governors of the Federal Reserve System to implement the consumer leasing provisions of the Truth in Lending Act, which is Title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*). Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 7100–0202.

(b) *Scope and purpose.* This part applies to all persons that are lessors of personal property under consumer leases as those terms are defined in §213.2(e)(1) and (h). The purpose of this part is:

(1) To ensure that lessees of personal property receive meaningful disclosures that enable them to compare lease terms with other leases and, where appropriate, with credit transactions;

(2) To limit the amount of balloon payments in consumer lease transactions; and

(3) To provide for the accurate disclosure of lease terms in advertising.

(c) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 130, 131, and 185 of the act contain the liability provisions for failing to comply with the requirements of the act and this part.

12 C.F.R. § 213.7 Advertising.

(a) *General rule.* An advertisement for a consumer lease may state that a specific lease of property at specific amounts or terms is available only if the lessor usually and customarily leases or will lease the property at those amounts or terms.

(b) *Clear and conspicuous standard.* Disclosures required by this section shall be made clearly and conspicuously.

(1) *Amount due at lease signing or delivery.* Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is a part of the disclosure required under paragraph (d)(2)(ii) of this section shall not be more prominent than that disclosure.

(2) *Advertisement of a lease rate.* If a lessor provides a percentage rate in an advertisement, the rate shall not be more prominent than any of the disclosures in §213.4, with the exception of the notice in §213.4(s) required to accompany the rate; and the lessor shall not use the term “annual percentage rate,” “annual lease rate,” or equivalent term.

(c) *Catalogs or other multipage advertisements; electronic advertisements.* A catalog or other multipage advertisement, or an electronic advertisement (such as an advertisement appearing on an Internet Web site), that provides a table or schedule of the required disclosures shall be considered a single advertisement if, for lease terms that appear without all the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

(d) *Advertisement of terms that require additional disclosure —(1) Triggering terms.* An advertisement that states any of the following items shall contain the disclosures required by paragraph (d)(2) of this section, except as provided in paragraphs (e) and (f) of this section:

(i) The amount of any payment; or

(ii) A statement of any capitalized cost reduction or other payment (or that no payment is required) prior to or at consummation or by delivery, if delivery occurs after consummation.

(2) *Additional terms.* An advertisement stating any item listed in paragraph (d)(1) of this section shall also state the following items:

(i) That the transaction advertised is a lease;

(ii) The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;

(iii) The number, amounts, and due dates or periods of scheduled payments under the lease;

(iv) A statement of whether or not a security deposit is required; and

(v) A statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

(e) *Alternative disclosures—merchandise tags.* A merchandise tag stating any item listed in paragraph (d)(1) of this section may comply with paragraph (d)(2) of this section by referring to a sign or display prominently posted in the lessor's place of business that contains a table or schedule of the required disclosures.

(f) *Alternative disclosures—television or radio advertisements —(1) Toll-free number or print advertisement.* An advertisement made through television or radio stating any item listed in paragraph (d)(1) of this section complies with paragraph (d)(2) of this section if the advertisement states the items listed in paragraphs (d)(2)(i) through (iii) of this section, and:

(i) Lists a toll-free telephone number along with a reference that such number may be used by consumers to obtain the information required by paragraph (d)(2) of this section; or

(ii) Directs the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that information required by paragraph (d)(2) of this section is included in the advertisement. The written advertisement shall be published beginning at least three days before and ending at least ten days after the broadcast.

(2) *Establishment of toll-free number.* (i) The toll-free telephone number shall be available for no fewer than ten days, beginning on the date of the broadcast.

(ii) The lessor shall provide the information required by paragraph (d)(2) of this section orally, or in writing upon request.

Link to 12 C.F.R. 213

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?type=simple;c=ecfr;cc=ecfr;sid=31ddee132b3eaac6e8305f8f7914b8a5;idno=12;region=DIV1;q1=213;rgn=div5;view=text;node=12%3A2.0.1.1.14>

Excerpt from 15 U.S.C. 1233 – REGARDING MONRONEY LABELS
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TITLE 15--COMMERCE AND TRADE

CHAPTER 28--DISCLOSURE OF AUTOMOBILE INFORMATION

Sec. 1233. Violations and penalties

(a) Failure to affix required label

Any manufacturer of automobiles distributed in commerce who willfully fails to affix to any new automobile manufactured or imported by him the label required by section 1232 of this title shall be fined not more than \$1,000. Such failure with respect to each automobile shall constitute a separate offense.

(b) Failure to endorse required label

Any manufacturer of automobiles distributed in commerce who willfully fails to endorse clearly, distinctly and legibly any label as required by section 1232 of this title, or who makes a false endorsement of any such label, shall be fined not more than \$1,000. Such failure or false endorsement with respect to each automobile shall constitute a separate offense.

(c) Removal, alteration, or illegibility of required label

Any person who willfully removes, alters, or renders illegible any label affixed to a new automobile pursuant to section 1232 of this title, or any endorsement thereon, prior to the time that such automobile is delivered to the actual custody and possession of the ultimate purchaser of such new automobile, except where the manufacturer relabels the automobile in the event the same is rerouted, repurchased, or reacquired by the manufacturer of such automobile, shall be fined not more than \$1,000, or imprisoned not more than one year, or both. Such removal, alteration, or rendering illegible with respect to each automobile shall constitute a separate offense.

Link to 15 U.S.C. 1233

<http://uscode.house.gov/download/pls/15C28.txt>

§ 10-4-619 C.R.S. - Coverage compulsory.

(1) Every owner of a motor vehicle who operates the motor vehicle on the public highways of this state or who knowingly permits the operation of the motor vehicle on the public highways of this state shall have in full force and effect a complying policy under the terms of this part 6 covering the said motor vehicle, and any owner who fails to do so shall be subject to the sanctions provided under sections [42-4-1409](#) and [42-7-301](#), C.R.S., of the "Motor Vehicle Financial Responsibility Act". This section shall not apply to persons who hold a current and valid certificate of self-insurance pursuant to section [10-4-624](#).

EXCERPTS FROM THE Federal Statutes and Regulations pertaining to odometers

The federal statutes used in odometer tampering prosecutions include the federal odometer statute (known as the Truth in Mileage Act) which since 1994 has been codified at [49 U.S.C. §§ 32701-32711](#)).

- The odometer tampering prohibition is [49 U.S.C. § 32703\(2\)](#).
- If a person replaces an odometer, [49 U.S.C. § 32704](#) directs what must then happen.
- False odometer disclosure statements are prohibited by [49 U.S.C. § 32705\(a\)\(2\)](#).
- The regulations referred to in the odometer disclosure statement statute are found in [49 C.F.R. Part 580](#).
- The criminal penalty provision is [49 U.S.C. § 32709\(b\)](#).

49 U.S.C. Section 32703. Preventing tampering

A person may not -

(1) advertise for sale, sell, use, install, or have installed, a device that makes an odometer of a motor vehicle register a mileage different from the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer;

- (2) disconnect, reset, alter, or have disconnected, reset, or altered, an odometer of a motor vehicle intending to change the mileage registered by the odometer;
- (3) with intent to defraud, operate a motor vehicle on a street, road, or highway if the person knows that the odometer of the vehicle is disconnected or not operating; or
- (4) conspire to violate this section or section 32704 or 32705 of this title.

49 U.S.C. Section 32704. Service, repair, and replacement

(a) Adjusting Mileage. - A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair, or replacement. If the mileage cannot remain the same -

- (1) the person shall adjust the odometer to read zero; and
- (2) the owner of the vehicle or agent of the owner shall attach a written notice to the left door frame of the vehicle specifying the mileage before the service, repair, or replacement and the date of the service, repair, or replacement.

(b) Removing or Altering Notice. - A person may not, with intent to defraud, remove or alter a notice attached to a motor vehicle as required by this section.

49 U.S.C. Section 32705. Disclosure requirements on transfer of motor vehicles

(a)(1) Disclosure Requirements. - Under regulations prescribed by the Secretary of Transportation that include the way in which information is disclosed and retained under this section, a person transferring ownership of a motor vehicle shall give the transferee the following written disclosure:

(A) Disclosure of the cumulative mileage registered on the odometer.

(B) Disclosure that the actual mileage is unknown, if the transferor knows that the odometer reading is different from the number of miles the vehicle has actually traveled.

(2) A person transferring ownership of a motor vehicle may not violate a regulation prescribed under this section or give a false statement to the transferee in making the disclosure required by such a regulation.

(3) A person acquiring a motor vehicle for resale may not accept a written disclosure under this section unless it is complete.

(4)(A) This subsection shall apply to all transfers of motor vehicles (unless otherwise exempted by the Secretary by regulation), except in the case of transfers of new motor vehicles from a vehicle manufacturer jointly to a dealer and a person engaged in the business of renting or leasing vehicles for a period of 30 days or less.

(B) For purposes of subparagraph (A), the term "new motor vehicle" means any motor vehicle driven with no more than the limited use necessary in moving, transporting, or road testing such vehicle prior to delivery from the vehicle manufacturer to a dealer, but in no event shall the odometer reading of such vehicle exceed 300 miles.

(5) The Secretary may exempt such classes or categories of vehicles as the Secretary deems appropriate from these requirements. Until such time as the Secretary amends or modifies the regulations set forth in 49 CFR 580.6, such regulations shall have full force and effect.

TITLE 49--TRANSPORTATION

PART 580--ODOMETER DISCLOSURE REQUIREMENTS

Sec. 580.8 Odometer disclosure statement retention.

(a) Dealers and distributors of motor vehicles who are required by this part to execute an odometer disclosure statement shall retain for five years a photostat, carbon or other facsimile copy of each odometer mileage statement which they issue and receive. They shall retain all odometer disclosure statements at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(b) Lessors shall retain, for five years following the date they transfer ownership of the leased vehicle, each odometer disclosure statement which they receive from a lessee. They shall retain all odometer disclosure statements at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(c) Dealers and distributors of motor vehicles who are granted a power of attorney by their transferor pursuant to §580.13, or by their transferee pursuant to §580.14, shall retain for five years a photostat, carbon, or other facsimile copy of each power of attorney that they receive. They shall retain all powers of attorney at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

[53 FR 29476, Aug. 5, 1988, as amended at 54 FR 35888, Aug. 30, 1989]

Sec. 580.9 Odometer record retention for auction companies.

Each auction company shall establish and retain at its primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval, for five years following the date of sale of each motor vehicle, the following records:

- (a) The name of the most recent owner (other than the auction company);
- (b) The name of the buyer;
- (c) The vehicle identification number; and
- (d) The odometer reading on the date which the auction company took possession of the motor vehicle.

Sec. 580.17 Exemptions.

Notwithstanding the requirements of Secs. 580.5 and 580.7:

(a) A transferor or a lessee of any of the following motor vehicles need not disclose the vehicle's odometer mileage:

(1) A vehicle having a Gross Vehicle Weight Rating, as defined in Sec. 571.3 of this title, of more than 16,000 pounds;

(2) A vehicle that is not self-propelled;

(3) A vehicle that was manufactured in a model year beginning at least ten years before January 1 of the calendar year in which the transfer occurs; or

(4) A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

(b) A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(c) A lessor of any of the vehicles listed in paragraph (a) of this section need not notify the lessee of any of these vehicles of the disclosure requirements of Sec. 580.7.

Link to Federal Truth In Mileage Act

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?type=simple;c=ecfr;cc=ecfr;sid=77a9a40411e6bcf5d561e2c2d5fa1e1a;idno=49;region=DIV1;q1=580;rgn=div5;view=text;node=49%3A7.1.1.1.9#49:7.1.1.1.9.0.1.8>